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■ **Kathleen Kennedy Townsend on valueless education**

The Washington Monthly

JANUARY 1990/$3.00

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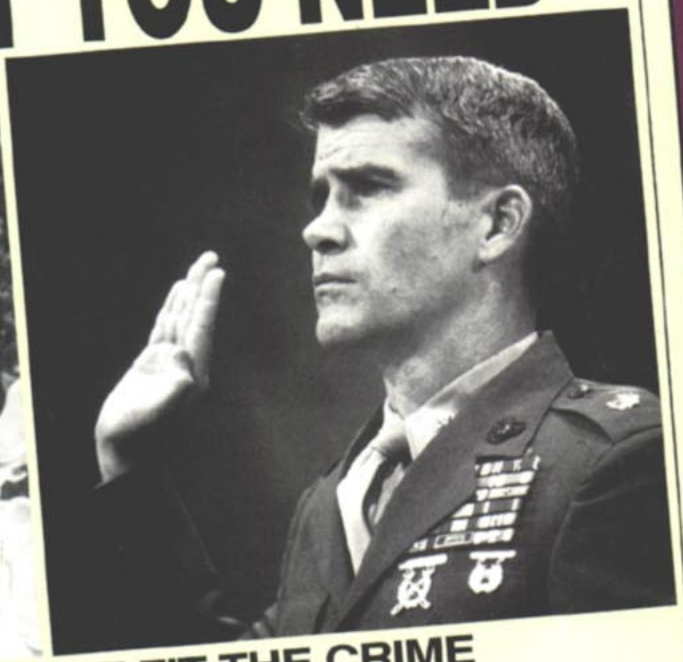

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by James Bennet

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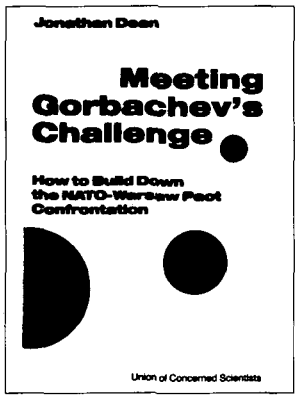

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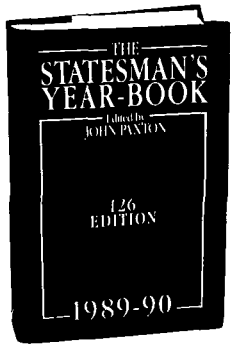

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The Washington Monthly

Volume Twenty-One, Number Twelve January 1990

Tilting at Windmills
by Charles Peters
The Kissinger connection. . . America's House of Lords. . . the Playtex pay-off. . . and other odds and ends. . . . 6

Congress's Deconstruction Theory
by Patrick Barry
How Congress is beating the low cost of construction. 10

The Forest Services's Catch-22
by Randal O'Toole
It's hard to see the forest when you've cut down all the trees. 18

Not Just Read and Write, But Right and Wrong
by Kathleen Kennedy Townsend
Our schools need to teach values, too. 30

Sentences That Make Sense
by James Bennet
We've tried tough on crime. We've tried soft on crime. Let's try getting smart on crime. 36

Restitution: Real Fine for Criminals
by Karen Lehrman
Time to bring back an old tool. 38

Making the System Work

File Before Reading
by Scott Shuger
When the Inspector General speaks, nobody listens. 22

The High Cost of Unaccountable Accounting
by Scott Shuger and Ned Martel
It's time to put the "independent" back in "independent audit." 26

ON POLITICAL BOOKS

Commons Sense
by Jonathan Rowe
Democrats, as well as Republicans, need to unhook themselves from the central state. 51

Political Booknotes
Reviews by **Murray Polner**, **David P. Hamilton**, and **Joseph Nocera**. 56

LETTERS 2
WHO'S WHO 21
MONTHLY JOURNALISM AWARD 11
THE WORST CITY GOVERNMENT 44
POLITICAL PUZZLE 55
TIDBITS AND OUTRAGES 50
MEMO OF THE MONTH 17

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LETTERS

Failing grades

I very much appreciate "Why Higher Education Is Neither" [Jason DeParle, Liza Mundy, October]. I think one of the only ways to rescue universities from their current deterioration—a pattern not at all new—is to bring out the reality and generate discourse thereabout. Journalism is essential to shoving aside the P.R. obfuscation and the jargon juggling by which university administrations keep trying to jack up their money and cheapen the student reward.

The internal fragmentation of a thing we used to call "the community of scholars" has split apart even departments and has essentially destroyed any institutional responsibility for the quality of teaching, the rigor of student evaluation, the debate and discourse concerning the operative mission of the outfit, etc. The alternative is not some old-time, right-wing canon of the white male West, but a devotion to quality rather than the color or gender or place the material springs from. Yet another perversion is the substitution of sentiment for reason—thrashing away thinking in classes and replacing it with emotional reactions. Grading then becomes a result not of standards but of power: the professor's personal preferences, which, in the main, are rather less interesting than knowledge. Then there are universities, including famous ones, where professional ethics are completely neglected in faculty recruitment, so that this relatively civil line of work is warped by bullying and lying punks. Keep up the good work.

JAMES DAVID BARBER
Durham, North Carolina

James David Barber is a professor of political science at Duke University.

Jason DeParle and Liza Mundy forcefully made their point. Clearly, higher education has failed in *their* cases. The result is a richly ironic piece.

I teach an undergraduate seminar at the University of Texas in Austin that DeParle and Mundy incorrectly labeled "Great American Trials." Its real title eschews any references to Whiggish greatness and has an important subtitle: "Famous American Trials: A Social History." Such simple journalistic inaccuracy troubles, but a generous and nonrigorous reader should excuse. More troubling is the authors' failure to contact me to inquire about the course's substance (which they nonetheless criticize) or to request a syllabus. Was I the only offender not contacted? I would have loved to hear from DeParle and Mundy. I positively delight in discussing pedagogy, particularly in reference to my own courses. Sadly, I never heard from the authors. I must confess some amazement at their total absence of curiosity.

My initial reaction, however, is now sufficiently alloyed with humor and an appreciation of irony. Still, my students' as well as my own reputations have been questioned. A few points in our defense: It is a course in social history designed specifically for history majors with a solid background in the discipline. My permission is required for admission to one of the 15 seats offered. I can assure the *Monthly*'s outraged readers that *no one* satisfies basic history requirements with the course. It simply requires too much work. In addition to its subject matter, the course is flagged by the university as one that attempts to sharpen students' writing skills.

Enough defending. The serious questions raised by the piece may still remain, even though this reader suspects that analyses based on superficialities alone usually produce pretty pitiful stuff. Or so I tell my students in "*Famous* American Trials." I too bemoan stupid fluff courses and endorse some sort of core curriculum. But can an essay which sets up straw persons to knock down and which violates canons of journalism, common courtesy, and professionalism really shape public opinion?

JOHN S. HUGHES
Austin, Texas

Fault lines

Our organization, which is a West Coast Hispanic think tank, commends you for your article, "Whose No-Fault Is It Anyway?" [Peter Spiro, Daniel Mirvish, October]. We are presently working on behalf of six million California drivers who cannot afford to pay $2,000 or more for auto insurance.

Recently, we presented to the California Trial Lawyers our actuarially sound (according to the California insurance commissioner) proposal for a fully affordable, $180-a-year policy that would guarantee every Californian involved in an accident, whether or not at fault, full recovery for all medical expenses and compensation for 75 percent of wage losses. In addition, victims would be free, should their injuries exceed $15,000 or be serious or permanent, to bring suit in court.

To our great shock, the California Trial Lawyers successfully sabotaged our effort before the California Legislature. Unfortunately, our organization and the other minority groups we are working with, such as the California Council of Urban Leagues, the League of United Latin American Citizens, and Chinese for Affirmative Action, lacked the financial resources to fight the trial lawyer lobby.

JOHN C. GAMBOA
San Francisco, California

Mr. Gamboa is executive director of the Latino Issues Forum.

I was amazed at the amount of misinformation contained in "Whose No-Fault Is It Anyway?" The authors plugged the insurance industry's rhetoric on no-fault without critical analysis, and, in doing so, they misled us all on the merits of no-fault and on the real reasons for high auto insurance rates.

It is not true that no-fault insurance is cheaper. States that have enacted no-fault generally have higher insurance

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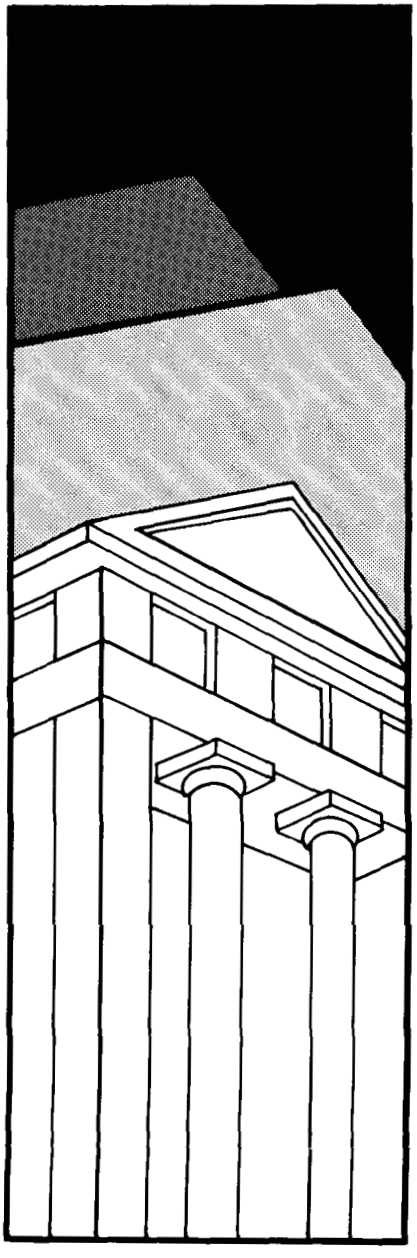

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rates than states that have maintained a traditional tort system. A 1986 GAO study of auto insurance rates around the country found that rates in no-fault states averaged 5 percent higher than in tort states. It is also not true that no-fault auto insurance reduces the amount of motor vehicle litigation. This study found that the average number of motor vehicle injury suits in no-fault states was higher than in tort states in every year between 1973 and 1984.

Another inaccuracy in the article was the statement: "No-fault treats auto insurance like any other kind of insurance: If you get injured, you get paid." This statement demonstrates a fundamental lack of understanding of insurance. Many kinds of insurance, including auto insurance, were developed specifically to protect people against the possibility of harming another person and the liability that might result, not to protect against personal injury. The only insurance that pays you any time you get injured is health insurance, and we all know what is happening to the cost of this product.

Blaming Ralph Nader for high auto insurance premiums may make a good headline, but it is unfair and untrue. Nader has been working for many years on the only real method to bring insurance rates down: Make the insurance industry accountable to consumers.

CAROLINE SMITH
Washington, D.C.

Caroline Smith is a lobbyist for Congress Watch, *a Nader-founded organization.*

The authors reply:

Caroline Smith's letter only adds fuel to our conclusion that Ralph Nader is the misinformed one when it comes to auto no-fault. To take her objections *seriatim*:

1) Smith correctly notes that insurance prices in so-called no-fault states have as a whole risen more quickly than in traditional tort liability jurisdictions. But she misses a main point of our article: Much of what has been enacted under the no-fault label isn't really no-fault, but rather severely bastardized forms fully protecting the trial lawyers' interest in continued litigation of accident claims. The three states that have most closely approached pure no-fault have seen a lower rate of increase than tort states.

2) No-fault does reduce auto-related litigation. The 1986 study cited by Smith is based on the grossly inadequate statistical basis of *published* court opinions. If such reported decisions are to be believed, there were, for instance, only 10 cases relating to auto insurance in Massachusetts in 1984. More reliable are studies focused on New York and Massachusetts, in which researchers studied docket sheets, which account for every case before a court. These studies found drops of 80 percent and 87 percent respectively in auto lawsuits with the enactment of no-fault measures.

3) It's true that some other forms of insurance operate on the liability principle. But just because they exist doesn't make them good: witness soaring liability-insurance costs faced by doctors, municipalities, and businesses generally. In fact, once no-fault conquers car insurance, it could sensibly be applied in other areas traditionally dominated by the liability principle.

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Subscription rates: U.S. and possessions: one year, $33; two years, $61; three years, $88. Foreign subscriptions, additional postage: Canada, $3; other, $25 air mail, $3 surface mail. Back issues, $4. Send correspondence concerning subscriptions, undelivered copies, and changes of address to 1611 Connecticut Ave. NW, Washington, DC 20009. For change of address, please provide six weeks' notice and include old address label. New subscriptions only: (800) 341-1522.
The Washington Monthly is indexed in the Book Review Index, Political Science Abstracts, Public Affairs Information Service, the Readers' Guide to Periodical Literature, the Social Science Index, and Ulrich's International Periodicals Directory and may be obtained on microfilm from University Microfilms International, Ann Arbor, MI 48106.
Unsolicited manuscripts must be accompanied by a stamped, self-addressed envelope.
Published monthly except combined July/August issue by The Washington Monthly Company, 1611 Connecticut Ave. NW, Washington, DC 20009 (202) 462-0128.

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ISSN 0043-0633.
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'Listen, my momma may have raised a mean child, but she raised no hypocrites.'

—Molly Ivins, The Progressive

Molly Ivins on George Bush:

"Deep down, George Bush is shallow."
The Progressive, March 1989.

"We do have some minimal standards for citizenship. Real Texans do not wear blue slacks with little green whales all over them. Real Texans do not refer to trouble as 'deep doo-doo.' George Bush has a hard time passing."
The Progressive, March 1988.

"Now George Bush the Younger is running for governor of Texas. We call him 'Shrub.' "
The Progressive, May 1989.

Molly Ivins on Ronald Reagan:

"It's such a fun Administration—half of it is under average and the other half is under indictment."
The Progressive, June 1988.

"If Reagan's IQ slips any lower, we'll have to water him twice a day."
The Progressive, January 1987.

Molly Ivins on Texas:

"The criterion for being considered an honest politician in Texas is as follows: If you can't take their money, drink their whiskey, screw their women, and vote against 'em anyway, you don't qualify."
The Progressive, June 1989.

"Things are so bad in Houston, the lawyers are walking around with their hands in their own pockets."
The Progressive, September 1986.

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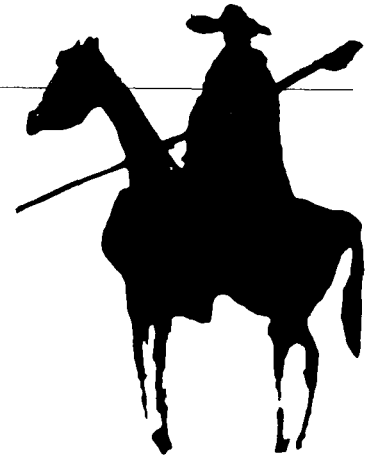

In "Why Higher Education Is Neither" in our October issue, we pointed out the infinite variety of lightweight courses available to undergraduates today. Add one more to the list: Men's Studies. There is even a *Men's Studies Review* and a Men's Studies Association. . . .

Do you realize what Lawrence Eagleburger is getting by with? He has refused to give the Senate Foreign Relations Committee the client list of Kissinger Associates. These clients enabled Eagleburger to earn $916,000 in 1988 alone. It is difficult to imagine that he will remain indifferent to their interests, especially when no one will know whether he's helping them or not. . . .

Have you heard about that new Peter Hart survey of 1,000 young people between 15 and 24? It shows that three out of five are not involved in *any* form of community service and concludes:

"Although they clearly appreciate the democratic freedoms that, in their view, make theirs the 'best country in the world to live in,' they fail to perceive a need to reciprocate by exercising the duties and responsibilities of good citizenship."

When they were asked to describe a good citizen, only 12 percent of these young people mentioned any kind of political involvement, even voting.

All this would suggest that a good part of the *Monthly*'s message has not exactly met with popular acclaim. But, as you will see in Kathleen Kennedy Townsend's article on the need for values in our schools on page 30 of this issue, we plan to go right on trying to get this selfish society back on track. After all, the reason this column is called "Tilting at Windmills," is that we believe in sticking by our convictions even if the rest of the world thinks we're demented. . . .

One of the ways future HUD and S&L disasters can be prevented is for the press to monitor the performance of government agencies. That's why I was pleased to see *The New York Times* on December 4 publish an evaluation of the Food and Drug Administration that revealed a dangerous decline in inspections and enforcement under Ronald Reagan. There should be reports such as this every week in major newspapers like the *Times*, *The Washington Post*, the *Chicago Tribune*, and the *Los Angeles Times*.

The major newsmagazines should also participate in this effort. An example of what they can do is the evaluation of OSHA in Steven Waldman's "Danger on the Job" in the December 11 *Newsweek*. Some facts from the Waldman article that I hadn't known and that may surprise you are: Although in 1988 alone there were 1,500 deaths and 140,000 injuries in agricultural work, nearly twice the rate in coal mining, the federal government spent only 30 cents per farmer on safety education compared to $2.44 per miner. The government has a much more cavalier attitude toward the safety of workers than it does toward that of the rest of us. For example, the permissible level of toxic lead inside a workplace is 33 times higher than that allowed on the street outside. . . .

Since—although not necessarily because of—the appearance in November of our articles on how the OMB and GAO failed to warn us in time of the HUD, Savings & Loan, and other disasters, reports have come from both agencies showing that they are now on the case. The GAO report identified programs where as much as "$100 billion could be lost." OMB's listed 73 "high risk" or problem programs. Among the matters covered by both reports was a stunning failure by the IRS in the collection of back taxes— estimated by the OMB to be $63 billion and by the GAO to exceed $50 billion. We should note, however, that although both OMB and GAO are beginning to understand what they should be doing, neither is making the major internal changes that would enable them to succeed not only in preventing fraud but in determining whether programs are needed or are effective in meeting the problems at which

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they are directed. . . .

How do bureaucrats react to criticism? Consider what officials at the U.S. Customs Service did when they learned that the GAO had prepared but not yet released to the public a report concluding that Customs had been ineffective in its efforts to halt the flow of illegal drugs into the United States.

Three customs agents were sent to steal the report. One used a ladder to climb through the transom at the GAO office and let the other two in the door. They proceeded to take two copies of the report from the office.

Once the episode became known, how did the government punish the guilty parties? The official who ordered the break-in was given a letter of reprimand, later removed from his file. The fellow who climbed the ladder was demoted to a pay grade $2,000 dollars less than what he had been receiving, and his two accomplices were "reassigned" to other investigative work. . . .

One reason for the constant mishaps in the Navy is that according to retired Admiral Gene LaRocque, the Navy has no way of bringing together reports of all accidents aboard ships to identify the dangerous patterns that should be guarded against in the future. . . .

Private enterprise will bring socialized medicine to America. Yes, you heard me right. Here's why I think such an outrageous improbability will come to pass. The cost of health insurance for its employees is killing American business. At Ford, for example, to cover the medical costs of both present and retired workers, the company spends an incredible $8,100 per current employee per year.

Such costs would be reduced dramatically if we adopted the Canadian national health plan. Doctors there are chosen by the patient but are paid fees that are determined by the government. The result is that Canada spends about 30 percent less per person on health care than the United States. Yet life expectancy in Canada is almost two years longer than here and the infant mortality rate is 24 percent lower. And the Canadian doctors aren't reduced to penury. The lowest paid—family physicians—make an average of $78,000 a year. . . .

If you are convinced that legalization of dope means that we will become a nation of slaves to marijuana and crack, consider what has happened with consumption of another addictive substance that *is* legal. According to the Center for Disease Control in Atlanta, consumption of distilled spirits is lower now than at any time in the past 30 years. . . .

Opponents of drug legalization often cite the fact that alcohol consumption doubled after prohibition. But society made two crucial errors it does not have to repeat now. First, we permitted advertising that glamorized the consumption of alcohol. Second, the movies of the era almost always made drinking seem sophisticated— remember William Powell in *The Thin Man* series?—or merely comic, as in the case of Jack Norton, the tipsy fellow with the moustache, instead of depicting it as the brutalizing, addictive, career- and family-destructive substance it can be and often is. . . .

I'm grateful to Edwin Yoder for reminding me of the lynching of Clement Haynsworth by the press in 1969. Haynsworth, a respected judge on the Fourth Circuit, had been nominated to fill a Supreme Court vacancy by Richard Nixon. Unfortunately, the nomination came at a time when liberals were spoiling for a chance to give Nixon a bloody nose. Haynsworth, the liberals discovered, was guilty of a conflict-of-interest. Guess how terrible it was: He owned stock in a vending machine company that did business with the affiliate of a firm involved in a case in which Haynsworth had acted as judge.

The day his nomination was rejected by the Senate, there was exultation among Washington liberals. When I knew the time for the vote had come, I walked down Connecticut Avenue to the ABC television office, where excited friends told me the news of Haynsworth's defeat. To my subsequent regret, I too shared in the glow of triumph over Nixon. . . .

There have been so many articles in the past year protesting the "political" ambassadorial appointments by the Bush administration that I am moved to say, "Hey wait a minute, political appointments aren't always bad." The first ambassador that I knew well was Chester Bowles. He was not a former foreign service officer but a former advertising executive and governor of Connecticut when he was named ambassador to India by Harry Truman and later by John Kennedy. By every measure he was an outstanding success. Today I have three acquaintances who are political ambassadors: Henry Catto Jr. in London, Julia Chang Bloch in Nepal, and Loret Ruppe in Norway. They are all able. Each, despite lack of background as a career employee for the State Department, has extensive

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experience dealing with foreign affairs. Sometimes, even experience isn't important. Bill Moyers had no experience in foreign affairs when he was appointed deputy director of the Peace Corps. Neither did the man who appointed him, Sargent Shriver. Both turned out to be superb. But, despite evidence like this, respectable America persists in thinking that political appointments are automatically bad. . . .

I am one of those who found some credibility on both sides of the custody struggle between Dr. Elizabeth Morgan and her ex-husband, Dr. Eric Foretich. But now that Dr. Morgan has sold her story to a television producer for a sum that seems to be in excess of $200,000, I'm beginning to suspect that Dr. Morgan wants to be a star and that the media attention her jailing attracted was not unwelcome. Linda Otto, the producer of the planned docu-drama, says she will not interview Dr. Foretich. "My agreement with Elizabeth Morgan is that no one will be in the film that she doesn't feel comfortable with and not one word will be said that she doesn't agree with." . . .

One reason the Senate did not choose to give itself the generous pay raise that members of the House will get may be that the senators don't need the money anyway. There are so many millionaires in the upper chamber that it is fast becoming another House of Lords—only in contrast to England, our lords have real power. The irony is that the 17th Amendment was adopted because the Senate had become a millionaires' club. Membership was obtained through bribery of state legislators, who elected senators prior to 1912. Now it's a millionaires' club again. The villain in this case is PAC contributions, which incumbents receive in such disproportionately large amounts compared to challengers that the only new members likely to gain entry are those wealthy enough to outspend the incumbents. . . .

The letter of invitation to the convention of the Republican National Lawyers Association promises those who attend both "a very special event" and "continuing legal education credits." For those of you who are innocent about these matters, some states, in order to encourage their lawyers and doctors not to stop learning after they graduate from law or medical school, require that they participate in continuing education programs. Some of the programs are legitimate, but many merely provide cover for vacation travel that therefore becomes tax-deductible.

But I do not mean to suggest that these Republican lawyers will not be sincere in their scholarly pursuits during this convention. I can imagine, for example, that a seminar in plea-bargaining would arouse keen interest among attorneys for a party whose leading members have proved so gifted at becoming involved in indictable offenses. . . .

The most familiar examples of the administration's policy of appeasement toward the Chinese government are its spineless attitude toward the murderous Khmer Rouge, the secret Scowcroft missions, and Bush's veto of the bill that would have allowed Chinese students, some of whom are on their government's "wanted" list, to stay in the United States after the expiration of their visas. But the most absurd may have occurred last fall when the State Department tried to persuade a private foundation, the Robert F. Kennedy Memorial, not to present its annual human rights award to the Chinese dissident, Fang Lizhi, arguing that it "would harm U.S. relations with China.". . .

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daughters to college in this era of professors who take pride not in teaching but in doing research and writing and consulting, Thomas Sowell has provided a list of good schools where the professors actually teach: Swarthmore, Amherst, Oberlin, Davidson, Franklin & Marshall, and Whitman. . . .

All those conservatives Ronald Reagan appointed to Federal district and appellate judgeships are beginning to have an impact. An early warning is the trend against injured plaintiffs in product liability cases. During the sixties and seventies, there was a strong trend in the courts in favor of people injured by defective products. Although the monetary damages awarded were excessive in some of these cases, they were on the whole a welcome reminder to American industry that it better start producing better and safer products. But now, according to a study by two professors at Cornell Law School that will appear in the *UCLA Law Review* next month, a "quiet revolution" is taking place in favor of the corporate defendants and against the injured consumer. . . .

One of the wonders of the women's movement of the 1970s and 1980s to those who remember the 1930s and 1940s is how the movement, which in terms of showing how women could do men's work had made such tremendous progress by 1945, suddenly surrendered and became dormant for the next 25 years. Remember the musical comedy, *Annie Get Your Gun*, which opened on Broadway in the spring of 1946? Annie, played by Ethel Merman, had proved to men "Anything you can do I can do better" but now she wanted the hero to see her as "the girl that I marry," who will "have to be as soft and pink as a nursery" and "wear satins and laces and smell of cologne.". . . .

Speaking of the trend against injured plaintiffs, have you heard about J. Michael Liles? Until last December he was serving as attorney in two suits in Missouri against Playtex for toxic-shock syndrome caused by its tampons. Liles then withdrew because he was hired by Playtex as a consultant to advise it in the defense of toxic-shock lawsuits. Playtex paid him $500,000. . . .

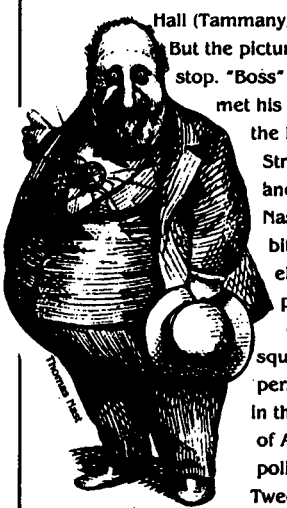
As the Cold War continues to wind down, what should replace communism as our number one enemy? Tribalism is my candidate. It lies behind everything from Arab terrorism to Japanese protectionism. Our goal should be to encourage mutual tolerance and fair play among the world's tribes. We should try to be the evenhanded peacemaker in our relations with the rest of the world. Above all we should not let ourselves become part of the problem by becoming haters of another tribe. . . .

The great powers of the post-Cold War world will certainly include Japan, Germany, and China, in addition to the United States and Russia. As to which of the five emerges as the political and economic leader, my guess is that it will be the one that comes the closest to defeating the stultifying bureaucratic forces that exist in each of them and are probably now the worst in Russia, where they are so strong that they constitute the major threat to Gorbachev's survival. All of which means that the main subject of this magazine during the past 20 years is going to be even more important in the next 20. . . .

—*Charles Peters*

"STOP THEM DAMN PICTURES"

That's what "Boss" Tweed demanded when he saw the handwriting on the Hall (Tammany, that is). But the pictures didn't stop. "Boss" Tweed met his maker in the Ludlow Street Jail and Thomas Nast put bitingly eloquent political cartoons squarely and permanently in the middle of American political life. Tweed aside, we think Emerson had it right when he said, *"Caricatures are often the truest history of the times."*



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Congress's Deconstruction Theory

How Congress is beating the low cost of construction

by Patrick Barry

What if there were a way to build more low-income housing, invigorate the national economy, and help the small business owner, all in one shot? What if the stroke of a congressional pen would help rebuild the nation's crumbling bridges and highways even as it reduces the budget deficit? While we're dreaming, why shouldn't this same initiative help minority and female workers gain a foothold in one of America's highest paying industries?

Such an opportunity exists. But standing in the way are two powerful groups that are so busy defending an old-fashioned idea that they are blind to its shortcomings. The culprits: Big Labor and its mostly Democratic support team in Congress. Even though each could score important gains in membership and power with the right move, they're not making it.

What's needed is the repeal or substantial reform of the Davis-Bacon Act, a law passed in 1931 to protect construction workers from being exploited. It was a reasonable idea back then, before minimum-wage and other labor laws were in effect. It set a "prevailing wage" on federally supported building projects, effectively guaranteeing a decent paycheck for the brickmasons and carpenters who built that era's post offices and highways. Today, though, the law has a different effect. It is a business-stifling paperwork monster that costs taxpayers $12 million annually just to administer and as much as $1 billion a year in added construction costs.

So says just about everyone, from Ronald Reagan to the Association of Minority Contractors of America to left-leaning nonprofit housing groups like Chicago's Bethel New Life, Inc., whose efforts to build low-income housing are hindered by high labor costs and dwindling federal support. A study by Oregon State University in 1982 found that the act drove up construction costs in rural areas by 26 to 37 percent. In 1979, after the GAO conducted studies of Davis-Bacon that led to negative conclusions, it did a full-scale investigation that found a program so difficult to administer fairly—and so expensive to the nation—that it wrote a scathing report with this breathtakingly concise title: "The Davis-Bacon Act Should Be Repealed."

Sacred pig

That was 10 years ago, but the act lives on, as does the cult-like respect for it on Capitol Hill. A good measure of that idolatry came last November when the Senate Labor and Human Resources Committee rejected the Bush nominee for head of the Labor Department's wage and hour division, Debra Bowland. No Democrats on the committee questioned Bowland's ability, but in voting against her, they pronounced her guilty of something apparently much worse than incompetence. Bowland's defect?

Patrick Barry writes on urban affairs and business for U.S. News & World Report *and several Chicago magazines.*

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She opposed Davis-Bacon.

From lock-step thinking like that, you'd never guess this legislation costs taxpayers $2.8 million a day, or, if you'd rather, $10 billion a decade. And that's only the drain on the federal budget; it doesn't take into account what that $10 billion could buy in the way of new roads to help U.S. factories institute just-in-time shipping or new housing to inject some life into the Bronx or Watts. Nor does it reflect the stifling effect the law has in the inner city, where unemployed workers are looking for entry-level jobs—not a $26-an-hour wage that no one will pay them.

"You want to know how to solve the low-income housing crisis? Get rid of Davis-Bacon." That's what Elzie Higginbottom says, and Higginbottom builds low-income housing in Chicago's grim South Side ghetto and manages his 2,500 units with a magic touch. Down the street from Chicago's biggest high-rise projects, where graffiti mars the hallway outside the police station and where stores hide behind steel-plate security doors, Higginbottom's manicured and tightly managed properties somehow repel broken glass and gangs. He has built high-rise housing downtown as well, luxury housing, establishing a reputation among developers and government regulators as someone who knows how to work federal guidelines for all they're worth. But he can't beat Davis-Bacon.

The Higginbottom line

The law requires Higginbottom to pay the prevailing wage to all workers on federally assisted projects of more than 11 units. In Chicago, that means paying carpenters $23 an hour, including benefits, and paying laborers $18.82 an hour for hauling in the drywall. The "prevailing" wage, as set by the Department of Labor, is a rough and frequently inaccurate average of wages contained in a survey by the department. The GAO found it is often higher than it should be. In fact, the wage sometimes looks startlingly like the local wage paid under union contracts.

So let's say Higginbottom wants to hire some of the unskilled black men from the neighborhood where he is building houses. He is black himself and fiercely committed to building a social and economic base in Chicago's poor neighborhoods. But to give a local guy a chance, Higginbottom has to pay him a wage set by Department of Labor bureaucrats. "I've got to start out a guy at $16 an hour to find out if he knows how to dig a hole. I can't do that."

Instead, Higginbottom and other contractors on federal construction jobs must grit their teeth and

THE WASHINGTON MONTHLY

Journalism Award

for October 1989 is presented to

Roger Mudd
MacNeil/Lehrer Newshour

This report (see p. 28 for excerpt) raises an important question: Why didn't Congress know that HUD was being plundered? After all, it does have 51 committees and 286 subcommittees covering everything from the continental shelf to toxic substances. Mudd points out that over the past eight years, the following committees with jurisdiction to do so never investigated HUD: the House and Senate Banking committees, the House and Senate Appropriations committees, the House Government Operations committee, and the Senate Government Affairs committee. Ditto for their various subcommittees on housing and oversight. Mudd identifies 14 committee or subcommittee chairmen who could have investigated HUD but didn't.

The Monthly Journalism Award is presented each month to the best newspaper, magazine, television, or radio story (or series of stories) on our political system. Nominations for any newspaper, magazine, or radio or television station in the country are welcome. The subject can be government in its federal, state, or municipal manifestation. Please send nominations to Monthly Journalism Award, 1611 Connecticut Ave. NW, Washington, D.C. 20009. Two copies of the article or broadcast text should accompany the nomination.

The award for stories published or aired in November will be announced in the February issue. Nominations for stories published or aired in December will close January 15. The winner will be announced in the March issue.

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work to the Davis-Bacon requirements. Sometimes that means filling out eight forms just to get started. It always means paying workers weekly and sending weekly reports to the Department of Labor, at an industry-wide cost of roughly $190 million per year. It means using workers only in strict job classifications, or changing a carpenter's pay scale to the electrician's rate in the middle of the day because he threaded a piece of electrical conduit through a stud wall, or to a truck driver's rate because he drove a flatbed truck across the lot.

It doesn't matter if the construction firm is a nonunion "open shop" where innovation and get-the-job-done attitudes are encouraged; the rules, almost a carbon copy of union contracts, apply to everyone. And since the unions helped write the regulations, that means you can't use "helpers" on the job except in very limited circumstances. "If a helper picks up a hammer, he's a carpenter; if he touches steel, he's a steelworker, at steelworker's wages," says Ralph C. Thomas III, executive director of the 3,500-member National Association of Minority Contractors. (For more on how that kind of union thinking continues to stifle American productivity, see sidebar.)

One of the most striking effects of the law is the way it makes life difficult for the little guy: the immigrant, the black or woman contractor operating out of a rusty Ford van, the painter who hires students or unskilled labor as helpers. The Baltimore-based Enterprise Foundation, a developer of low-income housing nationwide, has found that even in areas like Dallas, where Davis-Bacon wages aren't out of line, the law drives up prices because small contractors are scared away by the paperwork and other requirements. "When the small firms shy away from the job, that kicks us up to the next level of contractor," says Gene Ruckle, a development specialist for the foundation. "When we go out to the bigger firms, they say 'Aha!' and give us a nice fat bid."

The law's tentacles have reached beyond federal projects, because many states have passed local prevailing-wage laws. So when a one-school elementary district in California created a special tax to paint the school and approved a low bid of $33,600 from a three-person contracting company, it ran into trouble. A pro-union advocacy group complained to the state's Department of Industrial Relations, and sure enough, the contractor was paying his painter *only* $20 an hour and a young helper *only* $8.50 an hour. The law required both to earn $26 an hour, the "prevailing" wage. (Nineteen states have recently repealed these so-called "Little Davis-Bacons." After Florida exempted school districts from such provisions, it calculated an immediate 15 percent savings.)

If that doesn't scare away small contractors, the paperwork and bureaucracy might. In Chicago, im-

Union Dues & Union Don'ts

Why is the labor movement in decline? Part of the answer is provided by Jonathan Rowe, a contributing editor of *The Washington Monthly*, in his column in the *Christian Science Monitor*:

As though the streets outside were not obstacle enough, a horrendous racket fills the halls at a high school in Harlem. Students strain to hear through the din. The students here are not the problem. They are inner-city achievers, who aspire to become doctors and lawyers. One said recently he wanted to win a Nobel Prize.

The problem is repair work on the 65-year-old building. If the work were done in the afternoon, then classes could proceed in peace. But the union contract would make that too expensive.

In August, New York City enlisted prison inmates to paint over graffiti on the Long Island Expressway. It costs more to keep a person in prison than at Harvard University, so getting some constructive work out of these inmates would seem to make good sense.

Members of the painter's union, however, picketed the graffiti cleanup for three hours, tying up rush hour traffic. 'They should be paid the prevailing $18 an hour [wage],' a union spokesman said.

Then last month, the state Health Department was about to distribute an AIDS-prevention video to every high school in the state. Three recording artists had donated 10-second segments of popular songs. The union, however, demanded union scale for every producer and backup musician involved—$160.46 an hour and $80.23 an hour respectively. The catchy pop segments were cut.

Even Spike Lee, the popular young moviemaker, has had problems along this line. When Mr. Lee was just out of film school, Mother Jones magazine wanted to make a film about a bicycle

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migrant Korean shop owners and a polyglot mix of small-property owners have brought inner-city commercial strips back to life using an innovative and low-cost city program. The city used federal Community Development Block Grants to help merchants spruce up their facades, and over the past 10 years in one commercial district alone, 192 of 750 storefronts have put up new awnings, installed lighted signs, and built or rebuilt their brick and terra-cotta facades, each time getting a rebate of 30 percent of the project cost. The jobs are typically small, about $40,000 on the average, and most of the contractors are tiny construction companies. Some of them even specialize in facade work.

It was a good program. While it lasted. This year a municipal legal eagle realized that the program falls under the Davis-Bacon Act's provisions. So now the contractors must pay their electricians $26.03 an hour, while the guy who trowels mortar between the bricks gets $23.34. It doesn't matter if the company was paying $15 or $18 an hour, or if the company is a family operation that pays what it can. The wage must be the Davis-Bacon rate. And the forms must be filled out. "Most of the contractors are Hispanic or Korean," says Mike Reardon, who administers the program for the Lawrence Avenue Development Corp. "English is the second language for most of the merchants, and now they've got to fill out eight forms just to get started. We are essentially making it impossible for the small guy to do this; we're closing the little guy out."

But let's say a contractor decides he wants or needs the federal job, as is often the case for a struggling young-firm. He fills out the paperwork, makes a bid, and wins the job. The tuckpointer and electrician get a raise because of Davis-Bacon. But then on the *next* job, a private one with no federal connection, the boss must decide whether to set the wage back to the old level (bad for morale) or bid at the higher wage and possibly lose the project (bad for business). "The workers can't understand [when the wage is cut]," says Thomas of the minority contractors association. "It causes personnel problems, and you get job-jumping, especially among the premium personnel. The point is, Davis-Bacon isn't very popular with blacks in construction."

Still crazy after all these years

But the act remains quite popular with Democratic members of Congress. The current battle on the Hill is over a pair of amendments to the act, one introduced by Democratic Rep. Charles Stenholm, which calls for substantial reduction of paperwork, more use of helpers, and the exemption from Davis-Bacon provisions for projects of $250,000 or less (the cur-

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messenger. Having only $40,000, he asked the Screen Actors Guild for permission to make the film at experimental rates. The guild wouldn't agree, and the film was never made.

Rowe's sad stories find an echo from the West Coast in an op-ed piece in the *Los Angeles Times* by a senior Los Angeles police detective, Greg Meyer, who writes: *Please let it be a Halloween nightmare. Wake me when it's over. The cops can't do police work because their union won't let them.*

I carry a badge. And a gun. And I make more than $50,000 a year to sit at a desk at Parker Center. Three months ago I wrapped up a tour working the burglary detail at Hollywood. Put a lot of deserving folks behind bars. But I can't do police work any more. Got promoted (more money). Got better hours and a big desk at Parker Center. With an in-box even.

So comes the time that Chief of Police Daryl Gates has the radical idea that in order to get more working cops on the street, he will require a good number of us indoor types to get out of the office a couple of times a month, put on the uniform, and do basic police work.

Chief, how could you be so naive? Did you really think that well-trained, highly paid desk cops would be allowed to put down their pencils and do. . . police work?

Our union, the Los Angeles Police Protective League, whose motto is 'Protecting Those Who Protect and Serve Others,' has gone to war with Gates to keep us off the street.

The union even went to court and tried (though it failed) to block Gates from putting hundreds of extra officers on the streets tonight to prevent a repeat of last year's Halloween near-mayhem in the Hollywood area.

Well, union, though the benefits you have negotiated for us over the years are appreciated, I'm not feeling real protected right now. And a lot of my friends aren't, either. And the public. . . well, you union folks are supposed to protect the cops, not the public, so what do you care?

I believe there is still a need for unions to fight to protect worker health and safety and to secure for workers, through a share in ownership, a fair portion of the profit this labor helps create. But I'm sure unions will continue to decline if they continue to pursue policies that offend common sense and make this country uncompetitive in world markets.

—*Charles Peters*

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rent threshold is an almost meaningless $2,000). Most opponents of Davis-Bacon consider the Stenholm amendment a solid first step, since repeal at this point seems unlikely.

The other amendment, backed by Rep. Austin Murphy and Rep. Augustus Hawkins, both Democrats, is billed as reform but actually strengthens the law, widens its impact, and adds to the bureaucracy. It raises the threshold for new work to $50,000, but adds more paperwork through a new category—rehab work—with a $15,000 threshold. It also incorporates new language to prohibit off-site use of lower-priced labor, adds a complex framework to allow workers to sue for damages if they don't receive Davis-Bacon wages, and requires the Department of Labor (DOL) to do a wage survey every two years in all 3,000 U.S. counties, a job that many critics consider undoable without a large increase in the size of the DOL bureaucracy.

What the Building Trades Council and its backers in Congress seem unwilling to admit is that the United States is reaching the end of the era when its economy was big enough and strong enough to protect a coddled work force.

The AFL-CIO and its Building Trades Council are actively promoting the Murphy-Hawkins amendment while labeling the Stenholm approach "draconian" and bad for American workers. "If we lost Davis-Bacon, you would quickly see the return of the practices that made Davis-Bacon necessary in the first place," says Jay Power, legislative representative of the AFL-CIO. "People would be coming in from out of state and stealing jobs from your local contractors. These people would eat their own young to get a contract."

Power tells Republican members of Congress that, should the Stenholm amendment pass, these baby-eaters will grab contracts on the local post office and highways, "and we'll have a new Davis-Bacon in a month." This argument might have held water back in 1931, when two Republicans, Rep. Robert L. Bacon and Senator James Davis, sponsored the law to stop roving contractors who used gangs of low-paid workers to snare federal building jobs. But the GAO and Oregon State studies showed that the opposite is true today: Because of Davis-Bacon, local firms are *less* likely to work on federal jobs, while larger, nonlocal firms are *more* likely to work on them. As for the "fly-by-night" contractors slashing wages to steal jobs, the GAO report points out that when wage protections were eliminated from the Walsh-Healey Public Contracts Act, there was "apparently no adverse effect on wage rates."

Besides, today's construction workers are in high demand. There is a labor shortage predicted by the end of the century, so their wages aren't likely to drop. In most big cities, carpenters, bricklayers, electricians, and plumbers earn at least $20 per hour with benefits. The national average is $12.69 an hour, which is the highest hourly wage of the 10 occupational sectors surveyed in 1987 by the Bureau of Labor Statistics. As Oregon contractor Paul Emerick pointed out to a congressional subcommittee in April, "This hardly seems like a situation in need of federal protection."

What the Building Trades Council and its backers in Congress seem unwilling to admit is that the United States is reaching the end of the era when its economy was big and strong enough to protect a coddled work force. If there is just one lesson that's been learned in the steel and auto industries in the past decade, it is that rigid labor practices, high wages, and a stubborn union attitude seldom lead to lasting victory. The steel industry's punch in the gut was brutal: the companies lost $12 billion in five years, and the United Steelworkers of America saw the permanent loss of 500,000 steel jobs nationwide. The blow to the auto industry came more slowly but just as forcefully; after years of small defeats as imports gained market share, unionized plants began closing and work forces were cut as sub-assembly work was contracted out to more competitive, nonunion shops. Then the Japanese automakers marched in and told the United Auto Workers where to go: the union is still smarting from its recent defeat in Smyrna, Tennessee, where Nissan workers voted 2 to 1 against unionization.

The building trades are doing no better. As the unions hold out on Davis-Bacon, their position in the industry is slipping badly. The rigid work rules that scare businesses away from old-line union towns like Chicago and Detroit are apparently putting union contractors out of business as well. In 1970, only 30 percent of the country's contracting firms were open shops; by 1987 they had taken over 70 percent of the marketplace, according to the Associated Builders

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and Contractors. ABC is the nation's fastest-growing construction association, with 20,000 member companies representing 1 million workers, most of them nonunion. Even the big contractors are switching over, with 45 percent of the top 400 construction companies now open-shop, up from just 8 percent in 1973.

Power of the AFL-CIO says the unions are fighting back with pilot programs that reduce wages and eliminate some costly work rules. One new program in the San Francisco Bay Area, for instance, allows contractors to bid jobs under $2 million with a 20 percent wage reduction for journeymen workers. Another in Washington, D.C., sweeps away some of the restrictive work rules that have made union work so expensive. But Power puts the small changes in perspective by backhandedly describing the type of practices still going on: In Washington, D.C., he says, "they're getting rid of the two guys in the elevator [to operate it]." Why were there two guys in the first place? "In case one has to pee."

The road back for the steel industry, which once again makes some of the best and least expensive steel in the world, has been paved with many such work rule changes. Union workers at IN/Tek, Inland Steel Industries' new joint venture with Nippon Steel Co. of Japan, have thrown out job classifications almost completely (there were once seven classifications just for crane operators). They run the super-efficient mill in Indiana under just two job titles: operators, who run the 2,000-foot-long cold-rolling machine, and equipment controllers, who maintain it. Change and worker initiatives are evident throughout the industry: Weirton Steel's unionized workers took over the whole company, and the 3,900-member union at LTV Steel's Bar Division voted this fall to buy the division and run it themselves. Progress is slower in the auto industry, but the buzz words are becoming familiar: teamwork, worker participation, flexibility.

Kemp cant

While steel and auto workers marched to the brink with the help of torpid upper management, the trade unions are doing it with a different but equally well-meaning ally: Congress. Democrats have become so tightly linked with unions and so dependent on the union vote that Rep. Stenholm's reform amendment has picked up only about 50 Democratic supporters. "Davis-Bacon is a blood oath for the Building Trades Council, and the council has a lot of support in Congress," says Damen Tobias, counsel for Stenholm. Tobias says many congressmen are so used to voting the union line that they aren't paying attention to the substance of either of the current amendments, both of which are billed as "reform" measures.

Equally difficult to understand is the lack of awareness of what Stenholm-type reform of the law could do for the nation's health. It could help the nation address five overlapping crises: the growing federal debt that eats up $173 billion a year in interest; the looming infrastructure crisis, which at some point soon will force hundreds of billions of dollars worth of needed construction; the growing gap between the demand for skilled labor and the large pool of people too unskilled to do it; the shameful need to build or rebuild housing for the poor; and the decline of the nation's unions, which once represented 34 percent of the work force but now claim just 18 percent.

There are three groups that could benefit by making that phrase mean something: the Democrats, the Republicans, and the unions. The Democrats have the best shot at it.

The unions, if they let Davis-Bacon reform come sooner rather than later, could begin attracting the minorities and women that will be tomorrow's workers and dues-payers. They could chalk up some badly needed organizing victories by jumping in when small contractors try to cut wages, and they could once again earn a reputation as an ally of the little guy. But if past experience is any guide, we shouldn't wait for unions to lead that charge.

The Republicans don't show much promise either. When HUD Secretary Jack Kemp spoke to the National League of Cities convention in Atlanta this past November, he preached his free-market gospel and said, "The entrepreneurial democratic system is the greatest anti-poverty weapon the world has ever seen." But when asked if he would unleash that weapon by working to repeal or reform Davis-Bacon, Kemp hemmed and hawed, praised the progress unions have made, and finally said, "We can work *with* the unions." That's a far cry from what he told the *The Washington Post* in 1986 when he was fighting for Davis-Bacon exemptions for maintenance workers at the Kenilworth-Parkside Resident Management Corp. in Washington, D.C., one of the earliest and most successful tenant-managed public housing developments. He was passionate back then: "Someday somebody is going to ask organized labor what they're for in the inner city, welfare and food stamps, or jobs and housing for the poor."

Since Kemp's lost that fervor, maybe the Democrats will gain some, although at this point most of them still seem to think that defending Davis-Bacon is a way to help the little guy. Whether they have the insight and courage to reverse that thinking could indicate their chances of regaining power in the 1990s. □

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MEMO OF THE MONTH

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

Note to Dorothy Dozier

July 16, 1985

I apologize for using an obseenity to express my anger whn you refused to shake my hand and called me a liar. I also hope you remember when you said I was crazy and can only work in civil rights. I requested an apology and never got it. I also hope you remember other incidents when you have harassed and demeaned me in front of FHEO staff in which my character was assualted. I did not request an apology. These are not excuses for my use of profanity. By the way should I request an apology because you repeated the exact same words to me as I walked out of you office?

CC Monroig
Wynn
Pearl
Dean

U.S. DEPARTM

OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

MEMORANDUM FOR: Antonio Monroig, Assistant Secretary for Fair Housing and Equal Opportunity, E

THRU: W. Scott Davis, General Deputy Assistant Secretary for Fair Housing and Equal Opportunity, ED

FROM: Dorothy Dozier, Special Assistant Enforcement and Compliance, EC

SUBJECT: Barry Anderson's Confession and Avoidance Note

I have noted the seven charges made in the note signed by Barry.

A copy of the note is attached.

The seven charges are:

1. that I refused to shake hands with Barry Anderson
2. that I called Barry a liar
3. that I said Barry Anderson was crazy
4. that Barry could only work in civil rights
5. that I had harrassed and demanded Barry Anderson in the presence of FHEO staff
6. that I had assulted Barry Anderson's character
7. that I repeated the same vulgar expression which Barry had insulted me with.

You may judge for yourself whether a note charging one with several acts which will be regarded as unprofessional and out of character for a person of my reputation, rank, and experience is a note of apology.

My own judgement is that this note, with its serious accusations should be reviewed by an impartial person in order that I may have my name and reputation cleared since the note has been given wide circulation.

Attachment
cc:
William Wynn
Laurence Pearl
Deborah Dean

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THE FOREST SERVICE'S CATCH-22

It's hard to see the forest when you've cut down all the trees

Randal O'Toole

At the end of a Forest Service road in the middle of California's Sequoia National Forest, I found ground zero. Nearly all the trees on a 30-acre hillside had been "clear-cut" and dragged away. Stumps as large as dinner tables littered the landscape; soil eroded into a stream, which, newly exposed to the sun, was filling with thick green algae that smothered other aquatic life. Though the trees had been cut two years before my visit, almost no new plants were growing in the parched dirt.

But not all the trees were gone. Scattered among the stumps stood a few lonely giants, some larger at the base than an average-size living room and taller than a 20-story building. Many of these sequoia trees were over 2,000 years old. They looked strangely vulnerable in that scarred brown wasteland.

That was the environmental impact of the "Longsaddle" timber sale. Its financial impact? It *cost* the taxpayers $101,000. The Forest Service supervisor in charge of the sale told me he was "particularly proud" of it. Why? Under the laws governing the Forest Service budget, losing money by destroying the landscape is the surest way to earn money to improve the landscape. A bias in the law toward timber sales encourages managers to sell off acres of their trees to bring in revenue for other forest programs. Simply put, the supervisor felt that he had to destroy Longsaddle in order to save it.

Although the most famous giant sequoia trees stand in Sequoia National Park, the Forest Service actually has more acres of sequoia groves in the Sequoia National Forest. There, 2,000 trees meet the Forest Service's definition of "museum-quality"—more than eight feet in diameter near the base. It is a longstanding forest policy to preserve those trees.

But in the 1980s "preservation" took on new meaning—as did some other words. In a practice called "sequoia grove enhancement," forest managers began selling off all non-museum-quality trees in the giant sequoia groves. When the Sierra Club objected to enhancement, the Forest Service pointed out that in a natural setting, sequoias "are virtually hidden from sight by other trees." The Service argued that Sierra Club members were "simply imposing their values on others" in objecting to turning sequoias groves into moonscapes.

Though a 1988 court injunction has temporarily barred them from doing so, Forest Service officials say they want eventually to "enhance" 70 percent of the groves in the Sequoia National Forest. They argue that the procedure protects old giant sequoia trees from fire and promotes growth of new ones. It just so happens that it will also bolster the forest budget.

Randal O'Toole is a forest economist from Portland, Oregon, and author of Reforming the Forest Service.

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Nathan Stephenson, a National Park Service ecologist who received his Ph.D. studying giant sequoias, says there's no reason we should be missing whole forests for a handful of trees. He argues that protection from fire "is almost certainly unnecessary." In fact, fire is vital to the life cycle of sequoias and actually promotes reforestation. The thick bark of the sequoia protects it from fire, enabling it to live for thousands of years. And most sequoia cones release their seeds only after a blaze.

In 1987, a year after the Longsaddle timber sale, Stephenson compared the sale's enhanced groves with a grove burned by a wildfire at about the same time. Seedlings in the burned region were "so dense in areas that I could not avoid trampling several with each step." By comparison, he says, "I observed only a single sequoia seedling" in the Longsaddle cutover zone. Lonely sequoias—like the enhanced trees left standing at Longsaddle—are also more vulnerable to wind: though a single tree may weigh as much as a long freight train, its roots reach only about three feet into the ground.

To add economic insult to ecologic injury, all of the sequoia grove timber sales to date have drained far more from the U.S. Treasury than they have returned; many have cost even more than Longsaddle. The Peyrone sequoia grove timber sale in California, which decimated one of the largest sequoia groves in the forest, will probably lose the Treasury almost $500,000.

Sops for saps

Giant sequoia trees are unique, but the Forest Service's treatment of them is not. The Forest Service manages millions of acres of national forests in 40 states. It actively sells timber from nearly all of them, allowing the clear-cutting of 40- to 80-acre blocks and losing money to boot. Despite Forest Service figures that show recreation is worth far more than logging, the agency pumps much more money into timber sales than into recreation or any other activity.

Not only trees and taxpayers are getting hurt. New Mexico's Santa Fe National Forest contains one of the richest concentrations of ancient Indian artifacts in North America. The Forest Service is required by law to protect such antiquities. But it has clear-cut over these sites and then used a plow with disks 18" deep to plant trees. And for what purpose? Most sales in the Santa Fe Forest lose money.

Similarly, the managers of the Gallatin National Forest, just north of Yellowstone National Park, plan to build roads and clear-cut 124,000 acres inhabited by grizzly bears—a species classified as "threatened" by the Fish and Wildlife Service—as well as by elk, moose, and bighorn sheep. Sales in the Gallatin cost the taxpayers between one and two million dollars each year.

Many environmentalists believe Forest Service officials are simply biased toward logging. But the real villains are the paper lumberjacks in Congress, who have skewed the Forest Service budget process to encourage logging. Managers who throw money away on timber sales get a bigger budget than managers who emphasize wildlife or other resources.

Congressmen representing districts that include National Forests usually promote logging, because it provides more jobs for their constituents than any other forest activity. Recreation may create a lot of jobs, but they generally are in the urban congressional districts: Vacationers buy their equipment and food in their cities, not at their campsites. As a result, the Forest Service historically gets over 95 percent of the money it requests for timber sales. But it receives less than 70 percent of its requests for managing recreation, wildlife, or watershed.

Congress has institutionalized this bias with a series of laws that allow forest managers to keep a virtually unlimited share of receipts from timber sales. Foremost among these laws is the Knutson-Vandenberg (K-V) Act. Passed in 1930, it was designed to ensure that the Forest Service would have enough money for reforestation after timber cutting even if Congress failed to appropriate the funds. In 1976, the law was amended to allow managers to spend timber sale receipts on protecting wildlife and other activities near the timber sale.

The Forest Service identifies the trees to be cut, estimates their value, and offers them for sale at an oral auction, at a minimum bid price. The agency also sometimes builds roads to the sale area. These activities, including administration of the sale, are paid for by congressional appropriations averaging more than $40 for every thousand feet of board sold. The trees are cut and removed at the purchaser's expense in two to three years.

Forest Service appraisers make no effort to ensure that the minimum sale price covers the congressional appropriation. But they do make sure that the price is high enough to pay for those activities—including reforestation, prescribed burning, and road maintenance—that the Forest Service is allowed to fund from timber receipts. The Treasury recovers its costs only if timber is valuable and bidding is spirited, but low timber values on many national forests guarantee that most sales will lose money.

For example, the Treasury put up $500,000 to finance road-building and other preparations for the Peyrone sale. The winning bidder got the timber for only $330,000 in cash. Since the Forest Service ap-

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praisals guarantee the Treasury only 50 cents for every thousand feet of board sold, it would get back a total of $8,500. All the rest of the money would go to the Forest Service budget, which means a half-million-dollar investment by taxpayers would bring the budget more than $800,000. (These are the official projected figures for the sale, part of which a court injunction has stopped—but only after some of the most important sequoia groves were cut.) Not a bad bang for the buck—except that all of the $500,000 and most of the sale proceeds go to cut down the trees and plant new ones. In the Sequoia National Forest, as in many other national forests, the high costs of reforestation to replace the trees done in by the sale gobbles up almost all the receipts.

Boobs in the woods

Planners of the Peyrone sale argued that 80 years of fire suppression have left a lot of dead wood in the sequoia groves, increasing chances for a wildfire. They admitted a prescribed fire would clear the dead wood away, but noted that Congress wouldn't appropriate enough money to fund controlled burning. Ironically, the residue from a timber sale actually increases fire hazards; the Forest Service is allowed to spend some of the money collected from timber purchasers on a controlled fire. The rest goes for reforestation. In other words: to get rid of the wood on the ground, the forest managers chopped down most of the trees.

Such backwards logic drives most timber sales. The Santa Fe Forest can get federal money to inventory its ruins only if it is preparing for a sale, which may destroy its ruins. The Gallatin Forest managers argue that logging is good for the grizzly bear habitat because sale receipts can be used to close the roads built to reach the timber.

This bias in the Forest Service budgeting process gives environmentalists few options other than going to court. Environmentalists once hoped that Forest Service employees trained in areas other than timber would change agency attitudes. But they can't beat the funding process: the best way for Forest Service managers to get money for non-timber projects is to support a sale and then use whatever is left over. As a manager on Wyoming's Bridger-Teton National Forest pointed out, "If I dedicate an area to elk, I'll have a little wildlife money to manage the habitat. But if I dedicate it to elk *and timber*, I'll have both wildlife and timber money to manage the habitat." A biologist on Utah's Dixie National Forest was concerned that wildlife was being disturbed by the many roads in one part of the forest. So he supported a money-losing timber sale in the area to get funds to close the roads—a sale that will cost taxpayers more than would direct appropriations for road closures. Disturbances from the logging will at least partly undercut the benefits of closing the roads.

Although the K-V proceeds and other funds are supposed to be spent in the forests, a lot of the money never gets there. The Forest Service bureaucracy takes a cut for "overhead." For every dollar spent planting trees, the Washington office of the Forest Service gets about five cents, while regional and local offices get between 25 and 95 cents, depending on the forest. This means every level of the bureaucracy has a stake in continued timber sales.

Regional offices calculate their budgets for a given year partly from projections of that year's amount of reforestation, which will supply the offices with their cut of overhead. Because of administrative lags, the budgets are written several years in advance, so the projections can turn out to be wildly inaccurate. In the early 1980s, the recession greatly reduced the volume of timber cut from western national forests; since fewer acres were cut, fewer acres needed reforestation, and the flow of overhead into regional offices was less than anticipated. As a result, these offices began pressuring forest managers to meet their reforestation "targets," measured in acres of trees planted.

In 1985, Cherry Dulaney, a Forest Service employee in California, surveyed reforestation staff throughout the state and found that 15 to 30 percent of the work they had done in the past five years wasn't needed—it was done only to meet targets. Herbicides were sprayed during the wrong season; trees were planted in areas that were already well stocked. Sometimes, employees falsely claimed that they had reforested areas in order to meet their targets—all so that the regional offices could get their cuts.

Dulaney estimated that between 1980 and 1985, superfluous forest projects cost $3 million. Since the Forest Service spends close to $1 on overhead for every $3 of K-V money spent in the forests, this means the bureaucracy paid nearly $1 million to support the fraud.

Only God can make trees, but only Congress can save them from this budget-powered sawmill. Forest managers are just as human as anyone else; and they respond to the incentives built into their budget process. Changing these incentives will lead them to manage the national forests in the public interest, instead of as tax-subsidized tree farms.

For starters, the Knutson-Vandenberg Act and related laws badly need "enhancing": they should be cut. Second, Congress should allow the Forest Service to explore sources of revenue besides timber

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sales. Right now, managers are not permitted to charge fees for most non-timber resources. One alternative means of raising revenue would be to allow managers to charge user fees for all forest resources, rewarding them with a fixed share of net receipts—instead of gross receipts, as the K-V Act does. This fundraising scheme would discourage money-losing timber sales and put a premium on protecting scenic beauty, wildlife, and water. The Forest Service says that revenues from recreation fees would greatly exceed timber receipts. And since most vacationers expect trees to block their view of the forest, under a user-fee system forest managers will be less tempted to start "enhancing" anything.

It's heartening to note that some environmental organizations have finally figured out the Forest Service's budget scam. The Wilderness Society recently joined local groups across the country in calling for the repeal of the K-V Act and backing the collection of recreation fees. How many more trees will have to fall in our national forests before Congress finally hears the noise? □

WHO'S WHO

For those who still wonder about the identity of the culprit in the great flap over the "who leaked the Summit story to the press," the prime suspect is **James Baker**'s favorite confidante, **Margaret Tutwiler**. . . .

Other than Tutwiler, the two State Department staff members who have the most influence on Baker are said to be **Robert B. Zoellick**, counsellor to the president, and **Dennis Ross**, director of the policy planning staff. **Lawrence Eagleburger** (see "Tilting at Windmills"), who as deputy secretary should be more influential, actually ranks behind Tutwiler, Zoellick, and Ross. But Eagleburger does have some power. It springs from two sources: First, Baker sees Eagleburger's presence on the staff as insurance against criticism from **Henry Kissinger**, from whose firm Eagleburger departed before joining Baker. Second, Eagleburger is the only member of the top Baker team who knows the Foreign Service. For the career people, this is not good news, since most of them dislike the deputy secretary. . . .

Charles Keating's five favorite senators are using as a defense their reliance on **Alan Greenspan**'s 1985 report that described "the vibrant healthy state" of the Lincoln Savings & Loan Association. Other Washingtonians see this as further evidence confirming the suspicion that the financial community's faith in Greenspan is misplaced. . . .

Peggy Ann Cavazos, the wife of the secretary of education, often accompanies her husband to the office. The reason may not be unrelated to the fact that, according to *The Washington Times* gossip columnist, **Charlotte Hayes**, "if you'd like to go to work at the Department of Education in proximity to the secretary, it may be easier if you're a man or a lady with a gold band on a certain finger of the left hand." . . .

Robert Mosbacher, the secretary of commerce, has created a special entrance on 15th Street for his own exclusive use. He's even had a red awning installed to distinguish it from the means of ingress and egress available to the rest of the commerce staff. . . .

Few Washington insiders doubted that **Nancy Reagan** had some say in what went on at the White House during her husband's presidency, but few realized that she could treat him like a child as she did during the **Barbara Walters** interview on "20/20" in November. She continually cut him off with comments such as "We'll have a long conversation, honey, tonight" and "No. I think you should just let it go." . . .

The one man in the administration more hysterical about leakers than **George Bush** is his attorney general, **Dick Thornburgh**, who calls them "criminals.". . .

In—*Commerce:* Assistant Secretary for Oceans and Atmosphere—**Jennifer Joy Wilson**. *Interior:* Assistant Secretary for Territorial and International Affairs—**William Houston**. *Treasury:* Assistant Secretary for Public Affairs—**Roger Bolton**. *Agencies and Commissions:* Deputy Administrator, Federal Aviation Administration—**Barry L. Harris**. Chairman, Farmers Home Administration—**LaVerne G. Ausman**. Member, Federal Reserve Board—**David Mullins**.

Out—*Labor:* Wage and Hour Administrator—**Paula V. Smith**. *Agencies and Commissions:* Deputy Administrator, Federal Aviation Administration—**Barbara McConnell Barrett**.

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Increasing accountability in the American political and economic system has been such a major subject of the Monthly *from its beginning that a special section devoted to it from time to time seems to make sense. Here's the first installment.*

File Before Reading

When the inspector general speaks, nobody listens

by Scott Shuger

Do you remember that press conference in 1986 where Ronald Reagan revealed, "Repeated cases of fraud and abuse within HUD programs have resulted in substantial losses to HUD and the taxpayer. Investors, speculators, real estate agents, and salespersons have misused the programs for personal gain"? How about the speech around that time by Rep. Barney Frank, which disclosed that "a high percentage of units in HUD's existing public housing program have significant violations of HUD's housing quality standards"? Or that story from *The New York Times* in the fall of 1988, the one by Martin Tolchin with information like this: "The majority of modified rehabilitation projects funded by HUD over the last five years were selected without the type of open competition intended in HUD regulations"?

If you don't remember, there's a good reason. The press conference didn't happen, the speech didn't get made, and the story wasn't written. But all that information was available at those times—in the HUD inspector general's reports. And these reports were public information—fair game for presidents, congressmen, and journalists. True enough, inspectors general, being career bureaucrats, tend to whisper rather than shout and characteristically favor oblique phrases over acute ones.* But aren't the above facts at least a *little* attention-getting? Shouldn't they have piqued the curiosity of the president's aides? Aren't congressional staff members and reporters paid to start investigations into situations like these? But in fact, the HUD inspector general gave a scandal and nobody came.

There are many morals to be gleaned from runaway failures of government like HUD. One of them is that no one had been paying enough attention to the nation's inspectors general. Oh, sure, now that the HUD scandal has blossomed so colossally, people are starting to listen to the inspector general *for that department.* (Lately, material from HUD inspector general reports has found its way into the *The Washington Post* the day after the reports were released—

Scott Shuger is an editor of The Washington Monthly.

* *For more on this problem, see the following* Monthly *stories: "Inspectors General: The Fraud in Fighting Fraud," Joseph Nocera, February 1979; "Watching the Watchdogs," John Eisendrath, July-August 1986; and "What the Smartest Man in Washington Doesn't Understand. And Why it Will Hurt You," Jason DeParle, November 1989.)*

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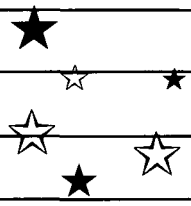

quite a change from the recent past when the *Post* didn't even have a reporter on the HUD beat.) But only time will tell if that's really meaningful attention or merely scandal-driven reporting by the press and damage control by HUD. And what about the inspectors general at all the other departments? It's essential that they be quality people with the ability to identify and analyze the problems of their agencies and with the courage to report what they discover. But it takes day-to-day scrutiny of their reports to increase the pressure on inspectors general to be just that. In the absence of raging scandal, is anyone really listening to them?

Asked who gets inspector general reports, a press spokesman at the Office of the Inspector General says, "I'm not aware of a copy being sent to the president." Yet the Inspector General Act of 1978 leaves no doubt about who the inspectors general* work for: Hey Mr. President, this omsbudsman's for *you*! To protect inspectors general from censure and control by the heads of the agencies they monitor, the act specifies that only the president can fire them (and even he has to explain such dismissals to Congress). So the White House's unresponsiveness to inspectors general is particularly egregious.

It's the Office of Management and Budget (OMB) that's supposed to be the White House's trip wire on bad news from the inspectors general. And nowadays at OMB you'll get a lot of admissions that inspectors general were being ignored there before Richard Darman took over as director—that's for the first 10 years they existed, mind you. Commenting on inspector general reports, OMB's Morgan Kinghorn doesn't bat an eye when he tells you that "the traditional OMB approach was to file this stuff." But he's quick to tell you that under Darman, things are going to be different—that every inspector general report will be reviewed by both the management and budget sides of OMB, with any bad news being immediately flagged for Darman. But Kinghorn's eye-glazing description of how this is going to work seems a far cry from the Inspector General Act, which speaks of inspectors general being "appointed by the president . . . to conduct, supervise, and coordinate audits and investigations. . . ." Instead of any such direct linkage between inspectors general and the president, explains Kinghorn, there are three OMB boards that deal with the problems they raise: "There's the PCIE—the President's Council on Integrity and Efficiency; there's the PCMI—the President's Council on Management Improvement; and the Chief Financial Officers Council. . . .And I think the director [of OMB] has just created a coordinating council of about six people representing those three groups. . . .Then there's the JFMIP—the Joint Financial Management Improvement group—composed of GAO, OMB, and Treasury. . . ." Thus far, Kinghorn

What The Washington Post *Could Learn from Katharine Graham*

While we've been doing a better job reporting on public officials, we've been criticized, quite properly in my view, for our deficiencies in reporting on the fabric of government—the inner workings of our system. . . .

That's the kind of reporting that should be a major part of our future—finding important things that really matter that have not received the attention they deserve.

—*Katharine Graham*

From the Frank E. Gannett lecture delivered recently in Washington.

* *The 24 agencies and departments with statutory IGs are Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, Agency for International Development, Environmental Protection Agency, Federal Emergency Management Agency, General Services Agency, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, United States Information Agency, and the Department of Veterans' Affairs.*

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admits that none of these groups is looking at individual inspector general audits, only the semi-annual general summaries. Additionally, "We are now looking at ways in which OMB may begin to organize review teams in some of those areas which seem intractable." Maybe all this plumbing will work, but it's not exactly the IG on the Bat Phone to the Oval Office.

Eighty-four congressional committees and subcommittees had jurisdiction over HUD during its scandal years. And all of those congressional staffs received HUD inspector general reports. Although until the HUD scandal broke, committees didn't receive individual audits—specific investigations like "Misuse and Diversion of Assets and Income at HUD-Insured Multifamily Housing Projects," "Losses in the Sale of Single Family Properties, Coral Gables Office," "Wage and Hour Back Wages Collection," and "Review of Petty Cash Fund"—they did receive the semi-annual summaries. And congressmen and their staff members should have known about the existence and availability of those detailed audits, since brief descriptions of them are required by law to be listed in the summaries.

The housing issues investigator for one congressional subcommittee knows just where to find the inspector general audit reports he needs for his work: "They're in an enormous box on my floor—about a month's worth." Such paper pile-ups aren't a matter of understaffing. If congressional staffs spent more time on their oversight functions and less on publicity and fundraising, the piles of inspector general reports in Hill in-boxes would be a lot lower. Congress simply has not put much emphasis on what the inspectors general have to say. "If the Senate and House Agriculture committees were routinely getting IG reports, I have to say they weren't being looked at there," asserts Ward Sinclair, who used to cover the Department of Agriculture for *The Washington Post*.

When I ask a House staff member if all inspector general reports in his committee's area get read, he's dumbstruck: "You think we've got an investigative unit over here?" Rep. Christopher Shays rationalized Congress's molasses response to the HUD inspector general this way: "There were so many questions that weren't answered by the inspector general's report." Well, then why didn't you look for those answers, congressman? Besides ignoring their audits, Congress has also failed to establish a close working relationship with the inspectors general themselves. One committee staff director excitedly tells me that he's just come from the first in-person briefing his committee has ever received from an inspector general. And he's been there 14 years. "When I was at Interior, for instance," recalls June Gibbs Brown, who in her government career under Carter, Reagan, and Bush has been inspector general at Interior, NASA, and Defense, "I didn't feel that the committees there were paying any attention to the IG reports at all."

Curses, FOIA'd again

There's another, darker reason for the lack of congressional follow-up on inspector general reports: Members don't want to ruin the gravy train for their constituents and hence themselves by looking into them. A congressman's desire to get agency money for his district—or to get money for some other member's district as part of a logrolling deal—dulls his zeal for evaluation.

But if the press were a more avid consumer of inspector general reports, politicians wouldn't feel so free to ignore them. "Lawmakers Were Warned of Abuses at HUD" trumpets the headline of a *New York Times* story from last summer about the HUD inspector general's attempts over the years to get the story out. And so they were—but where, by the way, was the *Times* when those warnings were issued?

Between the inception of the space shuttle program and the *Challenger* disaster, the NASA inspector general issued hundreds of audit reports concerning safety and defective materials. "I was always amazed that the press didn't really hop on those reports," confesses June Gibbs Brown, who was the NASA inspector general who produced many of those pre-Challenger audits. "There's some pretty hot information in them. If I were a reporter, I'd be waiting for them to come out to see if there was some new information that I could look into and follow up on."

Howard Kurtz, a *Washington Post* reporter who used to cover HUD—and who recently got some space in his own paper to chastise it for blowing the HUD story (see "Why the Press Didn't Press," at right)—has also been disappointed in the failure of reporters to appreciate inspector general reports. One reason he points to is that inspector general reports don't lead directly to stories. "Most reporters are by nature frantic and concentrating on stories for this week. It's just hard to do that sort of digging and studying." As a result, says Kurtz, "Most IG reports go unnoticed in most newsrooms." He adds that "Washington reporters want to cover the White

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House, they want to cover the Hill. Not a lot of them want to cover the Interior Department. So a lot of those reports just get missed."

In fairness to reporters, the government has made it harder than it should be to get at the key information the inspectors general put out. At one national newsmagazine, the reporters working on the HUD cover story were required to file Freedom of Information Act (FOIA) requests just to get the HUD inspector general's semi-annual general summaries, and once they received those, they had to follow-up with additional FOIA requests to get at the real information they needed. This took weeks.

That FOIA barrier can seem insurmountable to a beat reporter at a daily newspaper. "I knew that Agriculture was a place where there should be some really juicy IG reports," recalls Ward Sinclair. "The USDA is a prime place for scandal. I just didn't know what to ask for. I didn't have time to turn in an FOIA request saying I want copies of every inspector general report written in the last three years about food stamp fraud, or about violations of the farm subsidy payment limitations." Why should there be all this FOIA machinery governing inspector general reports? Except in those rare cases where national security or an incomplete criminal investigation would be compromised by disclosure, reports the inspector general has already signed off on should just be released—period.

And there is no reason why every inspector general doesn't make available not just the twice-a-year list of completed audits it does now but also a monthly updated list describing audits initiated since the last semi-annual report. "If I had known the IG had a list of reports every month available to the press," says Sinclair, "I would have gone over and looked at that list. It would have become part of the beat when I walked the halls over there. It probably would have propelled me into some pretty good stories."

Sinclair also says that he rarely found anybody in the inspector general's office who would tell him what sorts of problems were being uncovered. "Generally they were close-lipped and secretive. I just didn't find IG people with axes to grind." This is very different from Congress, where, as Kurtz puts it, "staff members flack their reports to reporters, saying

Why the Press Didn't Press

Howard Kurtz is The Washington Post*'s New York bureau chief. This item is edited from a piece that first appeared in the* Post *on November 12, 1989.*

As one of the few Washington reporters assigned to cover HUD as a regular beat from 1982 to 1984, I spent much time churning out stories of chicanery that in many ways foreshadowed the avalanche of sleaze to come. But most of these pieces were met with a collective yawn by the political and journalistic establishment. . . .

With so many early warning signs at HUD and so many consultants feasting on the "mod rehab" program, the *Post* should have sniffed this one out. . . .

When I left the HUD beat in 1985, no one was assigned to take my place for the rest of the Reagan presidency. The job, to be honest, was fairly low on the career ladder. . . .

The reason that the current HUD scandal exploded onto the nation's front pages can be summarize in two words: James Watt. The disclosure that the former interior secretary had made $300,000 by placing a few phone calls to top HUD officials on a developer's behalf added a delicious element—hypocrisy—that helped the scandal reach a critical mass. Soon the search was on for other big-name hypocrites. . . .

Had the greedy consultants been a bunch of nameless Joe Blows, I believe the HUD mess would have received far less coverage. . . .

The press-bashers have a point. In a city where the White House, Congress, and the State Department produce most of the banner headlines, HUD and similar agencies are viewed as journalistic backwaters. ■

Making the System Work

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'Look at page X, there's a good story there.' That's what reporters need."

The whole idea behind the inspectors general was to get information out on government agency problems where everybody—the president, the congress, and the press—could work on them. But for too long it's been assumed that everybody *else* was working on them. That's got to stop. The inspectors general really do need straight lines of communication to the White House. Any of their reports that they feel are important should go straight to the president's desk—attached to a summarizing memo prepared by a member of the White House staff, of course. And the president needs to read enough of these to keep government on its toes. This would bring into play the audit principle used to such good effect by the IRS: the taxman can't catch all the cheaters, but he might catch *me*. The inspector general should be thinking, "Well, the president probably won't read my report about this problem, but I'd better really get to the bottom of it, *because he might*."

If "trust, but verify" is a good slogan for arms control, it's a great one for evaluating the government. The president cannot just assume all the bad news is traveling up. Likewise, the Congress and the press must shoulder the burden of helping the inspector general's message find its mark. If the president sincerely believed any bad news from the inspector general wouldn't stay a private dirty joke for very long, he would feel more pressure to respond to it. And if the inspectors general knew that the president, the press, and the congress were really paying attention, they'd write better reports. But unless we make these changes, our national life will continue to be a matter of press conferences never given, speeches never made, and stories never written. □

The High Cost of Unaccountable Accounting

It's time to put the "independent" back in "independent audit"

by Scott Shuger and Ned Martel

"You need an operation," says the doctor in the old Henny Youngman joke. "But doctor," says the patient, "I don't want an operation." "OK, then," says the doctor, "for the same price, I'll touch up your x-rays."

It's an old joke, yes, but for too many of the nation's accountants it's something else. It's a living.

There they were, the accountants from the prestigious Big Eight firm of Arthur Young and Company giving "unqualified" audits—that's professional jargon for EVERYTHING'S OK OVER HERE—to Charles Keating's Lincoln Savings and Loan. This was at the same time regional federal regulators had concluded that Lincoln was a "ticking time bomb." Soon after, the bomb exploded, bankrupting thousands of investors who—at least partly on the strength of the Arthur Young audits—had been lured into uninsured junk bonds. And leaving millions of taxpayers with a $2.5 billion bill to pay for the federally insured deposits that were lost. The only thing "unqualified" about Lincoln was the extent of the damage.

Was Arthur Young's role in the Lincoln fiasco simply a matter of making auditing mistakes? Well, according to Richard Breeden, chairman of the Securities and Exchange Commission (SEC), when the SEC began investigating these audits, Arthur Young

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Making the System Work

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wouldn't respond voluntarily to requests for information. Breeden says that even after issuing a subpoena, the SEC was given documents made partially unintelligible by Arthur Young stampings and was told by the firm that copyright considerations restricted their availability to investigators.

Shortly after the second favorable audit, Jack Atchison, the Arthur Young executive in charge of the Lincoln account, left for a job with Lincoln's parent company. The new job came with a much higher salary—just under $1 million a year.

The Atchison episode tells you everything you need to know about the accounting profession's shortcomings. There are lots of ways to cook the books, and accountants are too willing to make use of them because if they do they can be on the receiving end of a very grateful client. And because if they don't, *they might blow the account.* Your client probably doesn't want an operation, but you want your client—so you touch up his x-rays.

As the Lincoln case shows on a gargantuan scale, this accounting mentality isn't some little vocational quirk—it's a menace to us all. Many accountants seem to have forgotten that. According to *The Wall Street Journal*, Janice Vincent, regional director for the company that Arthur Young was later folded into, defended the Lincoln audits by stating that accounting firms aren't auditing to determine the safety and soundness of the firm, but only to see if they've complied with generally accepted accounting principles. Well, if those generally accepted principles are worthless, what good is that?

Bert Ely, a financial consultant, got it right when he told *The New York Times*, "Accountants and auditors are not supposed to be advocates for their clients. You hire lawyers for that."

Unaccountable accounting is popping up everywhere these days. Recently Labor Department Inspector General James Hyland and his deputy Raymond Maria wrote that "major business failures following unqualified audit opinions have generated unprecedented public concern that the accounting profession is not protecting investors and creditors through the discovery and reporting of fraud and irregular activities." These Labor officials are worried that the lack of accounting rigor applied to private pension plan funds could produce an S&L-like disaster. According to the Labor inspector general's latest findings, "Reports prepared by independent public accountants are of questionable value in monitoring benefit plan compliance."

Cut the cord

Another bizarre and widely publicized business flame-out with its share of screwy accounting was ZZZZ Best, the carpet and furniture cleaning enterprise hatched by a wily Los Angeles teenager named Barry Minkow. Minkow's publicly traded company was based on multiple fraudulent loans, and its collapse vaporized millions from large firms and small-time investors alike. In packaging his stock offering, Minkow got plenty of help from his look-the-other-way accountants, Ernst & Whinney, a firm that later merged with Arthur Young. As Joe Domanick puts it in *Faking It in America*, his book on the Minkow scam, "A public offering of the size of ZZZZ Best's was undoubtedly one of the biggest jobs the relatively tiny Reseda branch of Ernst & Whinney was likely to see. . . .Ernst & Whinney was under tremendous self- imposed pressure to make the offering work. The competition in stock underwriting, like that in big-time law and accounting, was fierce, and Barry was the golden goose nobody wanted to kill."

The accountants have golden-goosed us too many times. How can we get them back to the business of telling the truth about business? The key is to break the current unhealthy ties that bind: *Have the accounting firm chosen by somebody else besides the company getting the check-up, somebody completely unconnected to it.* (*The Washington Monthly* has been urging this reform for a long time—see "Accountants: Those Wonderful People Who Gave You Maurice Stans," Thomas Redburn, February 1975.) That "somebody else" should be the SEC, which would approve all pairings of auditor to audited (the accountants would still be paid by the firm examined). Gone forever would be any worries about "blowing the account." And these assignments should be for a limited duration—for three years, say. This keeps the relationship sufficiently arms-length and has the added benefit that people work better and harder when they know that soon enough, somebody with no special love for them is going to check the results. The best way to get rid of Henny Youngman's doctor is to get a second opinion. □

Making the System Work

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How Oversight Is Overlooked by Congress

Mr. Mudd: There are now so many committees and subcommittees on Capitol Hill that you probably won't go wrong simply calling everybody in Congress either Mr. or Madam Chairman. . . .So with all that committee firepower, why did the scandal at HUD go untouched for so long?. . .

Let's begin with the [House and Senate] banking committees. . . .Why did the Senate Banking Committee not catch the scandal?

Senator Jake Garn: I was chairman of the full committee for six years . . . as well as [the] HUD subcommittee, and it is a fair question. . . .

Mr. Mudd: In 1987 after the Democrats regained control of the Senate, the chairmanship of the banking committee passed to William Proxmire.

Senator William Proxmire: Why didn't our Senate subcommittees with direct jurisdiction act to prevent this waste and fraud? The answer to that is simple. We had no idea that it was going on. . . .We simply didn't have the information. . . . It would have made a terrific billion-dollar Golden Fleece [Award] but I missed the boat. . . .

Mr. Mudd: So let's try the House banking committee. . . . Well, the chairman of the House committee was none other than Fernand St. Germain, and if anybody had less appetite for uncovering scandal at that time, it was probably St. Germain, . . . the subject of an Ethics Committee investigation. . . .

Now let's try the appropriations committees of the House and the Senate. It is here where Secretary Pierce and his staff had to come each year for money to run the department. From 1981 to 1986, Republican Mark Hatfield was chairman of the Senate committee responsible for the appropriations for 15 other departments, the Congress, the courts, and at least 30 independent agencies.

What about the [Senate] appropriations subcommittee specifically assigned to HUD? Well, the Republican chairman was none other than Jake Garn. And the Democratic chairman was none other than William Proxmire.

And the House appropriations committee? Well it was being run all those years by Democrat Jamie Whitten, whose main interest was and always had been agriculture and cotton in particular. The chairman of the [House appropriations] subcommittee on HUD was Democrat Edward Boland, but he was preoccupied with the war in Nicaragua. . . .

The list is growing short, and all that is left as congressional whistleblowers for HUD are the two big investigation committees of the Congress. The dominant Republican figure on the Senate committee has been since 1981 William Roth. What did Roth do with HUD?

Senator William Roth: Basically the role of the Governmental Affairs Committee has been minimal, primarily because the authorizing committee has the principal oversight responsibility.

Mr. Mudd: Were you aware, Senator Roth, about the scandal that was going on at HUD before the inspector general's report came out in April?

Senator Roth: No. . . .

Mr. Mudd: But government affairs also has an oversight subcommittee and its chairman is Democrat Carl Levin. Why didn't the subcommittee do something? Levin won't say. His press office says the Senator hasn't focused on the HUD scandal and doesn't want to get into that.

So now we're almost at the end of the line. . . .The chairman of the [House investigative] subcommittee [on housing] during the height of the scandal was Democrat Barney Frank. Frank claims he was trying to save HUD from [being] dismantled by the Reagan administration. He says he didn't know it was being plundered. But Frank, now caught in his own scandal, has ceased doing interviews about anything. Frank was followed as chairman by Tom Lantos. And but for Lantos, the HUD scandal might have slipped through the cracks of Congress. . . .

Roger Mudd on the October 9, 1989 broadcast of the "MacNeil/Lehrer Newshour."

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Not Just Read and Write, But Right and Wrong

Our schools need to teach values, too

by Kathleen Kennedy Townsend

In a suburban high school's crowded classroom, a group of juniors explained to me why drugs are difficult to control. "You see, Mrs. Townsend, what if you want a new pair of Reeboks? You could sell drugs and make $250 in an afternoon. It's a lot easier and quicker than working at McDonald's. You'd have to work there a whole week."

In my work helping teachers, I've walked into countless high schools where I could have filled a garbage bag with the trash in the halls. Yet I rarely hear teachers asking students to pick up the garbage—or telling them not to litter in the first place.

Of course, many students obey the law, stay away from drugs, and perform selfless acts: they tutor, work with the elderly, or run antidrug campaigns. But too many lack a sense of duty to a larger community.

A survey recently conducted for People for the American Way asked just over 1,000 Americans between 15 and 24 what goals they considered important. Three times as many selected career success as chose community service—which finished dead last. Only one-third said they could countenance joining the military or working on a political campaign. During one focus group interview for the study, some young people were asked to name qualities that make this country special. There was a long silence until one young man came up with an answer: "Cable TV."

Kathleen Kennedy Townsend runs a state program in Maryland designed to get students involved in community service.

The study concluded, "Young people have learned only half of America's story. . .[they] reveal notions of America's unique character that emphasize freedom and license almost to the complete exclusion of service or participation. . .they fail to perceive a need to reciprocate by exercising the duties and responsibilities of good citizenship."

Thomas's promises

While it is easy enough to blame this problem on the "me-ism" of the Reagan years, it's time to recognize that *it's also the result of deliberate educational policy.* One principal I know speaks for too many others. "Schools," she says, "cannot impose duties on the students. Students come from different backgrounds. They have different standards."

Twice since 1982 the Maryland Department of Education has sent out questionnaires to local education departments soliciting opinions about values education. The answers are typical of those found across the United States. Many respondents were indifferent, simply stating that values education is "inherent" in teaching. Other answers were more hostile: "Specific training in values is a new development which we do not consider essential," and "A special effort would cause trouble."

The consensus of the high school teachers and administrators participating in a curriculum workshop I ran last summer said it all: "Values—we can't get into that."

Schools across America have simply refused to

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take responsibility for the character of their students. They wash their hands of the teaching of virtue, doing little to create an environment that teaches children the importance of self-discipline, obligation, and civic participation. As one teacher training text says, "There is no right or wrong answer to any question of value."

Is it any surprise that students tend to agree? These days it seems they're all relativists. A collection of high school interviews quotes one 11th-grader as saying, "What one person thinks is bad or wrong, another person might think that it is good or right. I don't think morals should be taught because it would cause more conflicts and mess up the student's mind." One of her classmates adds, "Moral values cannot be taught and people must learn what works for them. In other words, 'Whatever gets you through the night, it's alright.'"

Now, it's obvious that the public schools are a ticklish arena for instilling values. Our pluralistic society is justly worried about party lines of any kind. That means that teaching values in the schools—whether as an integral part of the traditional classes or as a separate course—requires subtle skills and real sensitivity to student and community needs. Of course, families and churches should play a part, but neither are as strong or effective as they were a generation ago. Only the schools are guaranteed to get a shot at kids. That's why their current fumbling of anything smacking of right and wrong is so disastrous.

The importance of teaching values in the schools was barely mentioned last fall at the education summit presided over by George Bush at the University of Virginia. The meeting was dominated by talk of federal funding and drug education. The underlying valuelessness of American education—an obstacle to the intelligent use of scarce resources and a root cause of drug problems—really didn't come up.

Such a curious oversight at Thomas Jefferson's school! Jefferson fought for public education because he believed that the citizen's virtue is the foundation of democracy. Only virtuous citizens, he knew, would resist private gain for the public good. And to know the public good, you have to study literature, philosophy, history, and religion.

For many years, Jefferson's wisdom about education prevailed. James Q. Wilson attributes America's low level of crime during the 19th century to the efforts of educators to instill self-discipline. "In the 1830s," he explains, "crime began to rise rapidly. New York had more murders than London, even though New York was only a tiny fraction of the size of London. However, rather than relying on police forces or other government programs, the citizens concentrated on education.

"Sunday schools were started. It was an all-day effort to provide education in morality, education in punctuality, in decency, in following rules, and accepting responsibility, in being generous, in being kind.

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"The process was so successful that in the second half of the 19th century, despite urbanization, despite the enormous influx into this country of immigrants from foreign countries all over Europe, despite the widening class cleavages, despite the beginning of an industrial proletariat, despite all those things which textbooks today teach us cause crime to go up, crime went down. And it went down insofar as I, or any historian, can tell because this effort to substitute the ethic of self-control for what appeared to be the emerging ethic of self-expression succeeded." In 1830 the average American drank 10 gallons of distilled liquor a year. By 1850, it was down to two.

> One widely used teacher training guide states: "The method recommends that no moral judgement be made by the teacher. . . . [I]t is entirely possible that children will choose not to develop values."

The flavor of this 19th-century approach to education is preserved today in many state constitutions. North Dakota's is typical in declaring that public schools should "emphasize all branches of knowledge that tend to impress upon the mind the importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind." In current educational jargon, this approach is called "values inculcation."

The inculcation consensus started to break down around the start of the 20th century. Science gained greater respect on one hand, and on the other hand Catholic bishops and conservative evangelists denied that moral instruction could be carried on apart from religion. Science emphasizes testing, experience, reliance on what works, not abstract notions of right and wrong. And education was influenced by the pragmatism of William James and John Dewey, which rejected metaphysical notions of human conduct.

In addition, the establishment of college departments of cultural anthropology and the publication of studies of distant cultures by Margaret Mead and Ruth Benedict popularized the idea that all values are culturally determined and hence relative.

Take my wife

In 1981 the California State Assembly considered a bill that spelled out values that should be included in public school instructional materials. Among those values were: honesty, acceptance of responsibility, respect for the individuality of others, respect for the responsibility inherent in being a parent or in a position of authority, the role of the work ethic in achieving personal goals, universal values of right and wrong, respect for property, the importance of the family unit, and the importance of respect for the law.

The bill was defeated.

How have we reached the point where a list of basic values like that is considered unsuitable for schools?

Until the sixties, schools taught values more because of habits bred in the 19th century than because of conscious intellectual commitment. There were few courses or books in education schools about the teaching of values. That changed with the civil rights and antiwar movements, which challenged the old values as immoral. One immediate consequence was the rise of a new theory of moral development, called "values clarification": It's wrong for teachers to endorse any values; all they can do is help students discover their own.

One widely used teacher training guide, *Values and Teaching* by Louis Raths, makes no bones about this: "The idea that we should use all the resources available to us to produce a certain kind of character is repulsive. We believe that each person has to wrest his own values from the available array. . . .We are concerned with the process of valuing and not the product. . . .The method recommends that no moral judgment be made by the teacher. . . .It should be increasingly clear that the adult does not force his own pet values upon children. What he does is create conditions that aid children in finding values *if they choose to do so*. When operating with the values theory, *it is entirely possible that children will choose not to develop values*." (Emphasis added.)

Anti-inculcation textbooks are typically stockpiles of classroom questions and dilemmas. The following example intended for high school students comes from *Hypothetical Dilemmas for Use in Moral Discussions*, a 1974 book prepared by the Center for Moral Development at Harvard:

"A number of married couples who knew each

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other were thinking of 'swapping' (changing partners for sexual intercourse). The couples lived in the same neighborhood and knew each other quite well. They were people in their late thirties or early forties. They felt like they would like to have new sexual experiences. They felt that after being married for so long and having sex with the same person, sex had become quite dull.

"1) If all the couples agree to it, would it be alright for them to change partners? Why or why not?

"2) Recently there have been a number of 'swapping' cases reported in the newspapers. The public's reaction is very negative. Why do you think people react this way? Do you agree or disagree with them? Give reasons.

"3) If the couples had children, would this make any difference? What effect do you think 'swapping' would have on the children? What could some of the positive effects be?

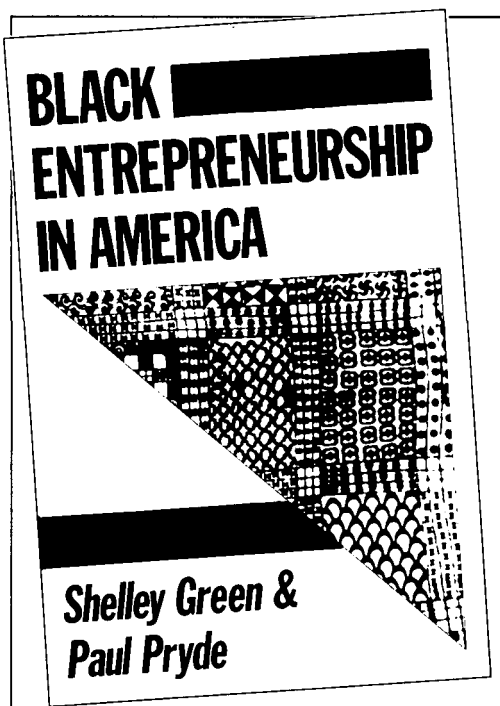
"4) What could some of the negative effects be?"

Values Clarification: A Handbook for Teachers and Students by Sidney Simon—a high-school text that has sold 500,000 copies—has the following exercise: Have the students sit in a circle and pretend that they are on a life raft and that in order for the group to be saved, one of them has to be thrown overboard. Each student must justify why he shouldn't be the one. Finally, the kids vote to decide who gets tossed out. After the vote, the students discuss the values implicit in the decision.

In one 12th-grade classroom, a young man uncomfortable with the exercise said he'd jump overboard. One can hardly blame him for wanting out. The exercise makes teenagers worry about the value of their lives but abstains from reassuring them about it. What could be more destructive than that? Rather than spending precious school time having the students consider ways to build a community, teachers are having them debate wife-swapping and decide who to kill.

Surveys and bestsellers have alerted us to the shocking inadequacies of American students' basic knowledge. In our public schools, the atmosphere of confused neglect fostered by values clarification turns this factual ignorance into a moral wasteland. In a recent survey of American students' knowledge of history, one girl's answer to "When was the Civil War?" was "I don't know and I don't care."

One or two glances at her textbooks and you can begin to see why she feels that way. There is little



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there of historical controversies, conflicts, glories, or tragedies. Little there to engage the student, to disturb, to make her think, to excite her, to make her dream. That's all been blanded out. In *Triumph of the American Nation*, one of the most widely used high-school history textbooks, a text that People for the American Way calls "substantive and well-written," Martin Luther King is described as leading the Montgomery bus boycott in response to discrimination against blacks, but there is no sense of who he is, of how he came to believe in nonviolence, of the profoundly religious and spiritual person that he was. In this book, racial discrimination is described as a legal issue resolved by the 1964 Civil Rights Act.

Equally disturbing is the short shrift such books accord George Washington, Abraham Lincoln, Woodrow Wilson, and Franklin Roosevelt. One high-school textbook finds it fit to spend two pages on the use of water rights during the Civil War, but offers no analysis of Lincoln. And textbooks describe the Pilgrims as "people who take long trips." In fact, according to Paul Gagnon, a University of Massachusetts history professor, in every one of the five most popular high-school history texts, more space is given to Andrew Carnegie and John D. Rockefeller than to Abraham Lincoln. Little is said in those books about the deeper reaches of character in Wilson and FDR, their backgrounds, or their political and religious principles.

Parents are for Nazis

A teacher's guide put out by the National Education Association favors values clarification over character inculcation. It condemns "attempts to inculcate a set of given virtues, e.g. the Boy Scout code. . . . This approach has often been used by people advocating a stringent adherence to white middle-class values—as they themselves choose to interpret those values." The guide states, "All of the authors in this volume, the editor, and the National Education Association, have chosen to help students discover their options, envision likely consequences, then make their own choices about what is good and honorable rather than trying to instill certain 'correct' values."

A recent article by a philosophy professor named Gerald Paske in *Educational Leadership*, the principal publication of the 91,000-member Association for Supervision and Curriculum Development, attacks a proposal for teaching traditional values on the grounds that their application may have little relevance to modern life. For example, Paske argues that the value of "honoring elderly parents" may have bad consequences because "such things as taking them into our homes, providing for their economic support, and preserving their lives. . .would today be inappropriate, often impossible, and frequently inhumane. The introduction of retirement programs and Social Security, the dispersion of family members throughout the nation, and the great advance in medical technology have generated many situations in which the traditional conduct would frustrate rather than promote the honoring of one's parents."

In another article in the same issue, Robert Primack, an education professor, condemns the idea of teaching character in these words: "Assume for the moment that the schools . . . accept the notion of the great tradition in education and they begin teaching patriotism. How do they distinguish among patriotisms? It must be pointed out that . . . the teaching of the great tradition by indoctrination characterized the German school system during much of its history prior to the Nazi take-over and certainly during the Nazi takeover itself."

These comments are typical of the ideas your children's teachers are trained on. Do we really want our kids to revile the Boy Scouts, abandon family ties, and believe that character-building is for Nazis?

A recent article in *The New Republic* by David Hamilton describes Boston University's takeover of the Chelsea school system, in which the newest building dates from 1910, less than half the ninth graders pass state-mandated tests (as compared to a 79 percent pass rate statewide), and 52 percent never complete high school; the system has one of the highest student pregnancy rates in the state. With all these problems to be solved, Hamilton is worried because BU's president John Silber wants to emphasize "moral education," a program of teaching students respect, courage, empathy, and integrity. Hamilton asks, "Will the Chelsea schools teach unwed pregnant teenagers that abortion is immoral? Moral education could well become a euphemism for instruction in [Silber's] particular brand of moral conservatism." Isn't it alarming that the fear of moral guidance for students runs that deep? So deep that it surfaces even where it's obvious the lack of values is having the most miserable consequences.

The major criticism of not teaching values is very simple: There are some values that teachers should affirm. Not all values are the same. My daughter is the only girl on her soccer team, and recently some of the boys on the team spit at her. The coach shouldn't have the boys *justify* their actions. He should have them *stop*. He should make sure they know they were wrong. That's what he should do. What he actually did tells you a lot about the schools today. He did nothing. □

This is the first of two articles on teaching values.

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Over the years The Washington Monthly *has tried to convince liberals that they're too soft on criminals who are dangerous and conservatives that they are too hard on those who aren't. Michael Dukakis's difficulties with the Willie Horton case made it clear that we failed to get at least part of our message across, which explains last month's cover story ("When Criminal Rights Go Wrong," Paul Savoy), as well as this one, and others to come.*

Sentences That Make Sense

Making the punishment fit the crime

by James Bennet

It was very hard, last July, to figure out what the sentence handed Oliver North meant. A jury had convicted him of three crimes: aiding and abetting obstruction of Congress, destroying and falsifying official documents, and accepting an illegal gratuity (the security system). The sentence included probation, a fine, and community service. There seemed to be something in it for everyone. Where Richard Viguerie saw "vindication," *The Washington Post* found proof that "You run a rogue policy even out of the White House . . . at your peril." Mary McGrory worried that the sentence demonstrated "there is no limit to what presidents can get away with in this country," but *The Wall St. Journal* celebrated it as a triumph over "the criminalization of political differences," on a par with the abolition of the Alien and Sedition Acts.

To those not paid for their opinion, the only obvious conclusion was that Judge Gerhard Gesell had thought long and hard, trying to come up with a sentence to fit the criminal. That made sense. And as everyone knows, the jails are crowded, so putting a nonviolent felon like North on probation, with a combination of punishments, seemed sensible as well. But the chaos of conclusions drawn in the press indicated that, though Gesell had sought to punish North, the effect of his sentence was ambiguous. The man had betrayed his public office, destroyed evidence, and lied to Congress. Wouldn't a few months in jail have made the punishment clear?

James Bennet is an editor of The Washington Monthly. *Research assistance was provided by Ethan Feinsilver and Ned Martel.*

Both aspects of that ambivalent response have merit, and their implications go far beyond the sentence of Oliver North. There are other convicts who should be in prison but aren't, and there are many more who are locked up but needn't be. Together they constitute a major challenge for the American justice system: It's time to start keeping the right people out of prison, and putting the right people in.

The federal system is holding 56 percent more prisoners than it was built to, the California state system, 75 percent. We pay almost $10 million a day to build prisons, and prison construction is the fastest-growing sector of many states' spending. When this boom is completed, a lot of state systems and the federal system still won't have enough beds. "Prison overcrowding" has a mixed meaning for inmates. For them, it means that what was once a storeroom or a gym is now a cell or a dormitory, and that fewer and fewer can get vocational training or drug treatment. But for many, it also means they'll be getting out early. And for some criminals, it means they're less likely to be going in at all.

In New London, Connecticut, drug dealers sent away for 10 years have been released in fewer than four months to make room. In the District of Columbia, a planned police sweep of drug-ridden areas was canceled because there was no place to put the new prisoners. While the average prison sentence quadrupled in length between 1965 and 1985, time served remained constant, thanks to court orders capping prison populations that squeeze some inmates out early. Under the logic of release plans used to

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deal with these caps, a man sentenced yesterday to two years for credit card fraud would be held, while a rapist who had served seven years of an 8-to-15-year sentence would be released.

Rather than forcing corrections officers to decide whom to let out in a crisis, judges should be thinking more carefully about whom to jail in the first place. "There aren't enough beds," said Judge John Byrnes of the Eighth Circuit Court in Baltimore. "We've got to learn to discriminate." He gives the example of a man convicted of a nonviolent felony, say car theft, who has a wife, child, and regular job. Judges realize that putting the man in prison would mean putting his family on welfare, but the Department of Corrections provides no other option. One way to punish the man more inexpensively, Byrnes said, would be to let him work at his job during the day while spending his nights in the city jail.

Byrnes was describing a form of "alternative sentencing." The driving principle of this approach to corrections is that incarceration should be viewed as the toughest long-term punishment, not the only one. That's not a new idea; it's the theory behind probation, which judges have used for years to avoid sentencing criminals to prison. A criminal with a suspended sentence—like North—must obey any conditions of probation the judge sets: how often he has to check in with his probation officer, how many hours of community work he has to do. Hanging over his head is the threat that if he fails to comply, his suspended term will come to life, and he'll wind up in jail. That technique has enormous potential. By expanding the range of punishments that can accompany a suspended sentence and sharpening supervision by probation offices, judges can punish—and possibly rehabilitate—some criminals either without sending them to prison or by adding just a brief prison term to a sentence's mix of sanctions.

In a few cases, alternative sentencing involves matching the punishment to the crime, as Dante would have: forcing a man convicted of driving drunk to work in a hospital emergency room or a slumlord to live in one of his firetraps. Usually, though, the sentences aren't that symmetrical; they're just sensible. Alternative punishments include options like house arrest, fines, victim restitution, intensively supervised probation, and community service. Some programs, like a model probation system in Georgia, have cut recidivism rates among convicts below those of people jailed for similar crimes, for about one-eighth the cost of prison. Others, like a community service program in New York City, don't pretend to make angels out of the petty criminals they divert from cells: They set out only to punish, to cost less, and to save bed space for dangerous felons.

Who might be eligible for this type of sentence? Obviously not remorseless violent offenders, like the conscienceless killers of the Kansas farm family depicted in Truman Capote's *In Cold Blood*. That they should be imprisoned for a very long time is a self-evident message that our corrections systems, which keep paroling and furloughing Willie Hortons, seem to have never quite gotten. Habitual nonviolent criminals, the ones who start stealing again as soon as they return to the streets, also must be locked up for a long time. But it doesn't make sense that almost half of the nation's prison space is taken up by nonviolent criminals. They may not all be Jean Valjeans, but they aren't all Ted Bundys either.

Remorseless violent offenders should be imprisoned for a very long time. But it doesn't make sense that almost half of the nation's prison space is taken up by nonviolent criminals. They may not all be Jean Valjeans, but they aren't all Ted Bundys either.

Criminals requiring only a short prison term include white-collar felons like North, the Savings and Loan con artists, and Jim Bakker (who just got 45 years for fraud). Prison is useful in these cases not only to punish, but to deter. Jail's power as a deterrent increases with the social rank of the person contemplating a crime. After reading Tom Wolfe's *The Bonfire of the Vanities*, who could forget how just one morning in a Bronx holding tank transformed Sherman McCoy, the fallen bond trader? That was fiction, true, but based on one solid fact: The comfortable can still be scared straight—not so much by the length of the potential sentence as by the guarantee that there will be some real jail time. Hot-blooded criminals, for whom the crime was an act of passion to be forever regretted and never repeated, may also require only a short term, joined to suspended time and some alternative punishment. The prospect of hard time is the chief advantage of the suspended

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sentence: if a man beats up a close friend after a drunken argument, chances are a judge can safely punish him without separating him from the community; but if he goes back and does it again, the judge can invoke the suspended term and put the thug away.

Maybe because only grisly crimes make for good news stories and movie plots, it's a bit surprising to look at what types of criminals are actually stuffing our cells. Some 81 percent of the prisoners in the federal system are in for nonviolent crimes like embezzling and evading taxes, and 34 percent of state prisoners have no record of violence. For 18 months, Brandeis University's National Institute for Sentencing Alternatives has been studying the criminal histories of the 17,000 state prisoners in North Carolina, where the costs of corrections have more than doubled in the past 10 years. The Institute's director, Mark Corrigan, said his staff found that 20 to 30 percent of North Carolina's prisoners might be safely punished outside prisons. That figure is consistent with studies the institute has done for Maine, Arkansas, and Alabama.

The institute is recommending several options to the North Carolina legislature. For example, car thieves might be placed in a residential program, in which they would be required to hold a full-time job. Of their earnings, some would go to pay back their victims, some would go to pay for their program, and some would go to their own savings—and some, of

Restitution: Real Fine For Criminals

by Karen Lehrman

"Under our system of law," then-House Majority Whip Tony Coelho said last spring, "John Mack owed his debt to society, not to this young woman." But Mack, who subsequently became Jim Wright's right-hand man, had slashed the young woman's throat, not "society's." Mack had beaten the young woman over the head with a hammer and left her for dead. Pamela Small's family paid thousands of dollars to have her face and skull reconstructed. Besides sitting in jail for a few years more than the 27 months he served, shouldn't Mack have had to contribute *something* (like maybe everything he owned) to repair some of the damage he'd done?

Today, Coelho's "logic" notwithstanding, he probably would have. Federal judges and judges in 23 states are required either to order criminals to compensate their victims or to explain in writing their reasons for not doing so. And in the last few years, an almost underground system of victim restitution programs has sprung up across the country. In one of these programs, while incarcerated, Mack might have had to work off his victim's medical bills. He might have had to sit across a table from his victim and face up to what he'd done to her. He might have been moved enough to apologize, which, in Small's words, "would have helped. If only symbolically."

The concept of victim restitution, of course, is hardly new. In the Bible, Zacchaeus, a corrupt tax collector, had to pay Israelites four times what he had taken from them and then give half of what he had left to the poor. Throughout much of medieval times, restitution was the method of choice to recompense victims. But in 1116, England's Henry I, son of William the Conqueror, made himself the victim of all criminal crimes. A fortunate side effect of this move was that the state got to keep all compensation. The role of the victim gradually disappeared from the criminal justice system; to seek compensation, a victim was forced to go through arduous and often prohibitively expensive civil court proceedings.

The idea of victim restitution resurfaced in the late 1960s, propelled by a general dissatisfaction with both institutionalization and probation. Restitution could hold a crook accountable for his crime—benefitting the victim, the community, and perhaps even the offender. One of the most innovative restitution programs was started in the

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course, would go to pay taxes. Right now, North Carolina's only option is to pay between $11,000 and $23,000 a year to jail them.

Robojudge

At the same time that alternative sentences are making more sense than ever, Congress and state legislatures are passing laws that prevent judges from using them. Congress enacted bills revising sentencing practices four times in the 1980s: 1982, 1984, 1986, and 1988. Every year was an election year, and every law was a little more "tough on crime."

Perhaps the most radical change—with the most dire implications for crowding in the federal system—came in 1984, when Congress created the U.S. Sentencing Commission. It directed the group to overhaul the old "indeterminate" system of sentencing, which allowed judges great discretion, often producing wide disparities in sentences for the same crime. The Sentencing Commission mapped out guidelines with which judges must calculate all sentences by determining a crime's "offense level," achieving what one judge called "sentencing by computer." Thanks to a bias of the commission toward longer sentences, more criminals are going to jail for longer periods.

The guidelines kicked in for crimes committed after November 1, 1987. Combined with the mandatory minimum sentences Congress enacted for drug of-

Quincy, Massachusetts, District Court by Judge Albert Kramer in 1975. Kramer thought there existed a better option for first-time offenders than putting them back on the streets or in jail. He put them to work.

His Earn-It program found offenders minimum-wage, part-time jobs in the community (at department stores, grocery stores, car washes, gas stations—whichever local businesses would take them). The criminals gave two-thirds of their earnings to their victims until the debt was paid, keeping the rest. For many offenders, it was their first job; for others, it was the first time they had borne responsibility.

The program was so successful—approximately 80 percent fulfilled their restitution obligations—that even offenders convicted of violent crimes were included. Now there is no longer an Earn-It program per se at Quincy court; there's a probation department that does creative restitution and community service sentencing. The department hands out about 1,000 restitution orders a year, at an average of $400 each. In 1988, $350,000 passed from criminals to victims.

More than 500 jurisdictions now offer some type of victim restitution program, whether set up on the Quincy employment-focused model, on a work center model (for those who need incarceration), or on a more victim-oriented model (where paying off the victim is more important than finding the offender a job). In general, the victim's role in these programs has been growing, often out of sheer practicality. Rather than just leave the restitution up to the judge, many jurisdictions have adopted the "arbitration" method, which protects the offender against exaggerated claims and offers the victim a chance for real input. Essentially, the two parties haggle, through a probation officer, over the appropriate restitution.

Some programs, like one run by the sheriff's department in Genesse County, New York, eliminate the middleman and have the criminal and victim negotiate face to face—even in cases involving violent crimes. According to Burt Galloway, a professor of social work at the University of Minnesota, who has run several mediation programs, when the criminal meets his victim face-to-face he often apologizes—and he's more likely to pay back in full. Besides the financial benefits, restitution is thought to bring psychological comfort to victims by restoring their sense of fairness and control over their lives. Victim-offender meetings also bring a feeling of closure.

Given these benefits of restitution, judges should have to require it in all cases involving damages. And there should be some mechanism so that the improverished criminal who comes into money later doesn't get off scot-free. Mack was making just over $5,000 a year when he attacked Small, but by the time the story broke last year he was earning roughly $89,500.

Not only would a system like this better sensitize judges to the needs of victims, it would force them to use restititution in white-collar cases. The complexity and large amount of money involved in these cases currently discourage the use of restitiution. Many savings and loan executives, for example, could never in their lifetimes pay back all the people they robbed. These guys usually wind up getting fined and serving some time. But just because they can't pay their victims back doesn't mean we shouldn't make them try. Should Charles Keating get convicted, would you rather see him sitting around in the prison camp in Danbury, Connecticut, or, after putting in a little time, working off his debt in a downtown car wash? ■

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fenses, the new rules are sending some prison terms through the roof. "I had a young man who was a senior [in college] and a varsity athlete," said a district court judge in Washington, D.C. The man had started dealing drugs on campus—a crime the new laws punish severely. "The long and the short of it was that he's been sent to jail for 12 years. I would have sent him to jail, but not for 12 years. His life is ruined. He's going to come out of jail a middle-aged hoodlum."

For some prisoners, a little time behind bars can go a long way. Witness the recent photo of Ivan Boesky—hunched over, with scraggly hair and beard, in sneakers and sagging sweatpants.

In the first six months of 1989, after all these new laws had begun to operate, the combined state and federal prison population grew more than twice as fast as it had ever grown. And we haven't seen anything yet. Expanded definitions of felonies are mostly responsible for swelling the population now. In Delaware, for example, possession of more than five grams—about the weight of a nickel—of any controlled substance, including marijuana, is classified as a "violent crime." The criminal automatically goes to jail. But the sentence also carries a mandatory term: three years without parole or time off for good behavior. The guidelines and mandatory minimums mean that a couple of years down the road, today's prisoners—like the college drug dealer—won't be getting out when their predecessors used to. Despite projected prison construction (much of which was planned without considering the effects of these new rules) inmates will begin to stack up like never before, ratcheting up the pressure on our hit-or-miss early release systems.

Stars and bars

Luckily for him, Oliver North committed his crimes before the guidelines came into effect. The commissioners were particularly tough on white-collar criminals. An expert in applying the new rules said North would probably have landed at level 19: 30 to 37 months in prison, followed by two to three years on supervised release. Well, justice is finally blind. Unfortunately, she's also more clumsy than ever. Certainly a man whose crime was abuse of power should lose his liberty for a while. There could be no more effective punishment for him and no better example for potential White House felons. But three years of prison for crimes like North's amount to revenge, not punishment.

The new rules have made uniform what the system's lack of alternatives has encouraged for years. Jean Harris, then the 58-year-old headmistress of the Madeira School for girls in McLean, Virginia, murdered her lover in a jealous rage in 1981. She got 15 years to life. She's served eight years at a New York State prison, where she's written two books and had two heart attacks. In *They Always Call Us Ladies*, Harris wrote that before going to jail, she imagined arriving would be "like landing on the moon." It's safe to say she's now better informed; she's been humiliated by guards, tortured by the screams of insane women, and very lonely. She surely learned long ago the lessons that prison can teach.

In a 1987 *Mademoiselle* column on Harris, Barbara Grizzuti Harrison wrote, "Where there is crime there must be punishment." Right on—but that doesn't mean, as Harrison concludes, that justice can be served only if Harris stays behind bars. *The New York Times* made a similar lapse in reasoning in a 1988 editorial arguing that justice will be served only if Harris gets clemency. Judges shouldn't have to mete out punishment the way the rest of us switch on a lamp. If Harris doesn't deserve complete liberty, but further prison time is too harsh, she could now be punished more mildly with some sort of service. If she needs tougher punishment than that, a judge could stick her in a residential facility, fine her into penury, and divide her days between teaching kids and scrubbing pots and toilets. But why are we still paying so much money to keep this harmless old woman in jail?

Enter Zsa Zsa Gabor. Gabor slapped a police officer last June and went on to make a media circus out of her trial. All in all, said Beverly Hills Municipal Judge Charles J. Rubin in sentencing her, "she demonstrated an attitude of continual contempt for the legal system." He gave her a "split sentence": not just fines and community service but also three days in the county jail. Gabor's husband has said that the "rich and famous" shouldn't have to go to jail; the beauty of the sentence is that it's exactly that attitude that put Gabor there.

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Gabor is now trying to turn her sentence into a celebrity charade, like her trial. But the television cameras won't be able to follow her inside. The former Miss Hungary will probably find that the petty indignities—getting finger-printed and patted down, wearing the plain blue jail suit—and real frustrations of her three days will make her regret her behavior. Ask any careless driver how it felt to spend a few hours pacing the cement floor and eyeing his cellmates in a sherriff's lockup, waiting for a sleepy friend to arrive with the money: for some prisoners, a little time behind bars can go a long way. There could be no more striking image of incarceration's quick and lasting effects than *The New York Post*'s recent shot of Ivan Boesky—onetime insider-trader and current inmate—hunched over, with scraggly hair and beard, in sneakers and sagging sweatpants, a pair of shoes clutched in his left hand and a duffle bag in his right. The man will undoubtedly wear a suit again one day. But he, and we, will know where he's been.

North by North's desk

The dash of jail time for Gabor was crucial to Judge Rubin's creative mix of sanctions. Somehow, it made the sentence seem appropriate in a way that Oliver North's and Jim Bakker's were not. The day after North's sentencing, *The Washington Post* editorial board sounded worried—as though, after a long night of head-scratching, it was still trying to convince itself that Judge Gerhard Gesell had done the right thing. At bottom, the *Post* decided, North's sentence was "fair enough": "He won't have to go to prison, but he's hardly gone unpunished."

Make that "nearly gone unpunished." Gesell fined North $150,000. It should take him exactly six speeches to come up with it. Then there's that $23,000 Marine pension (almost the price of a whole speech), automatically canceled by the conviction for shredding documents. *The Wall Street Journal* called this "North's biggest punishment." This fall, it occurred to Congress that it was time to revisit the shredding law. It exempted from the statute any "retired regular officer of the Armed Forces of the United States." "Mr. President," drawled Jesse Helms from the Senate floor, "I will just say to Ollie North: this one is for you."

The community service requirement seemed the most satisfying provision for all commentators. It's what North's lawyer, Brendan Sullivan, asked for, invoking the curious logic of high-priced defenders that their clients' willingness to perform a community service sentence should be regarded as cause for awarding one. Even Mary McGrory, otherwise displeased with the sentence, conceded that the service would mean "frustration for a hotshot." The *Post* editorial board, still unhappily chewing it all over, found a strange way to stretch the service out: North was "required to give 1,200 hours of community service *(atop the time already given to his defense)*. . . ." [emphasis added]

Robert McFarlane's lawyer said he was "working with quadriplegics." The word that people familiar with McFarlane's volunteer service kept using to describe it was "lobbying."

Gesell said he hoped the service would remind North of values he overlooked in the "elite isolation of the White House." But North seems just to have traded one form of elite isolation for another. He's working with Save America's Future (SAFe), a new group based in Washington that hopes to prevent drug use among children and teenagers. Everyone seems to think he's a great guy, but it's hard to get a handle on exactly what he does. He doesn't help set policy, and he doesn't help put it into action in the field. He works in an "administrative capacity" to help "coordinate activities." This fall, in a story about his service for *Fairfax* magazine (no, he never described what he does), North wrote, "If I can, in some small way, help to save a goodly number of the young people of Washington from the evil of drugs then I will have fulfilled some small part of my obligation as a Christian."

According to Wilbur Atwell, the director of SAFe, North has worked outside of the office *once* since he started his service in August. During his first month (coincidentally, before the interest of the press waned) he put in close to 150 hours. Atwell called that "extraordinary." But since then, North's been doing between 12 and 15 hours per week, somewhat less than the 16 he was scheduled to perform. He's not even there at set times—Atwell described his schedule as "flexible." Last July, McGrory announced that North had been awarded "a commission in the drug war." But when it comes to battling drugs, the heavily decorated Lt. Colonel has turned out to be

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just another spare-time desk jockey.

After the sentencing last spring, Sullivan, North's lawyer, requested a stay of payment of the fines pending an appeal, scheduled for February. But he added that "Lt. Colonel North does *not* seek a stay of the sentence of probation conditioned on community service." In a perverse way, the *Post* turned out to be right: North's 1,200 hours of community work are a continuation of "the hours already given to his defense." North "would like to begin promptly the important community service program ordered by the Court," wrote Sullivan. In other words: We'll skip the punishment, thanks, but we'll take the moral credential.

Abuse by 'Best Use'

Much careful work goes into producing an alternative sentence like North's. Once guilt is determined in a high-profile case, the defense and the prosecution work up "sentencing memos" presenting their vision of the ideal sentence. They tend to disagree. A probation officer puts together a third, supposedly unbiased memo. In less glamorous cases, the judge often gets no report at all. In the jurisdictions where probation officers do assemble reports, the officers are frequently so overwhelmed that they can manage to make only a call or two before plugging the convict into a familiar sentencing formula. A larger investment in our probation offices would go a long way toward dealing with overcrowding, not just by boosting supervision but by producing hardnosed appraisals of all criminals' eligibility for alternatives. Barring that investment, alternatives to incarceration are likely to remain too rare for the broke criminal.

In the meantime, lawyers at tonier firms have turned the sentencing memo into an art form. In his operatic 17-page memo, Sullivan switches so quickly from trumpeting the independent counsel's malice ("The IC's memorandum shows it will stop at nothing in its effort to crush Oliver North . . . . the blows it strikes . . . are as foul as any we have seen.") to softly stroking a violin through tales of North's heroism in war and suffering under press scrutiny, that by the end, when Sullivan suddenly changes tactics and appeals to reason ("There is no need to incapacitate or rehabilitate Lt. Colonel North."), the reader can only, limply, agree. Where Michael Deaver's memo, running 49 pages (including table of contents), graphically treats him as a pathetic character ("Mr. Deaver was feverish, confused, disoriented, lethargic, and was experiencing both auditory and visual hallu-

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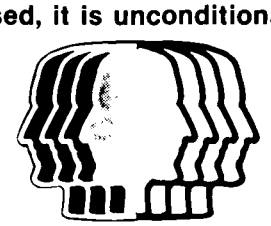

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cinations.") and Bob Wallach's memo seems to be describing Atticus Finch ("an exemplary personal and professional life," "a decent and honorable human being"), North's memo depicts someone much larger than life—a hero indefatigable in the service of his country.

In a letter excerpted in the memo, Rep. Bob Stump wrote that North "has worked tirelessly to carry out the policies of the president." Sullivan wrote that "North was responsible for two principal areas: counterterrorism and Central America. He worked tirelessly to fulfill these responsibilities." George Cave, formerly of the CIA, sent a letter attesting that North had "worked tirelessly to not only free the hostages" but also to scare terrorists. (Even the IC conceded North's epic stamina: "The defendant was a public official who worked tirelessly. . . .") The crescendo begins when Sullivan introduces a lengthy excerpt of a letter from a woman who arranged a meeting between North and a terminally ill boy, shortly after North's congressional testimony and just before the child's death. According to Sullivan, it was the boy's "dream" to meet North. The unidentified woman picked up the story: "The outcome of this meeting was like a miracle to [the boy] . . . . He felt a peace he had never felt before . . . . He was finally happy and content and able to help others because Lt. Colonel North took the time out of his busy schedule . . . to help another person." There they go, putting Jesus behind bars again. Although, come to think of it, Jesus never suffered the children to run interference for him.

Besides being able to retain counsel with superior literary skills, wealthy and white-collar defendants benefit from biases built into the system. Probation officers prefer to work with them, and so are more likely to recommend them for community service. "Your white-collar offenders are much better. They're usually fairly responsible—other than that they've committed a crime," said Gregory Hunt, Michael Deaver's probation officer. "They do everything on the dotted line. They show up when they're supposed to, they meet with me when they're supposed to."

But the greatest contributor to the white-collar alternative-sentencing scam—the reason Oliver North is working in an "administrative capacity"—is what could be called the "Best Use" argument. Best Use was perhaps most eloquently enunciated in the fall of 1988, when Judge Thomas Penfield Jackson sentenced Michael Deaver, former White House deputy chief of staff, to community service for perjury: "It is far better . . . that Michael Deaver pay his debt to society in a currency society can better use." The idea is that a convict can best repay society by applying to some worthy endeavor the skills he once used illegal-

The Worst City Government

If you raped anyone in the District of Columbia in August or September, you can sleep easy tonight: the D.C. police were on the case. Many rape cases cannot be effectively prosecuted because the department ran out of the kits used to process evidence. When a local television station, WUSA, broke the story, the police couldn't understand what all the fuss was about. "We run out of pencils, too," said a department spokesmen.

D.C. General Hospital, which handles most of the city's rape cases, treated 89 victims during the two-month period that the kits were unavailable. Police maintain that hospitals can collect evidence without the formalized procedure, which is a bit like a hospital saying that police can take care of the injured without ambulances. The kits provide step-by-step instructions for putting hair, semen, and other relevant material in eight different envelopes, which then must be signed and sealed to be valid as evidence in court. In the words of one doctor, "Unless you happened to be a lawyer as well as a doctor," there's no way you could get the procedure right. And for a defense attorney, the slightest procedural flaw means money in the bank.

The police apparently made no effort to compensate for the missing kits. Dr. Gene Zaglin, an emergency room specialist, reports that when it comes to gathering rape evidence the D.C. police can be "very nonchalant"; in one case, they didn't even bother to come to the hospital to take a statement from a victim. Maybe none of the officers had a pencil.

—Ethan Feinsilver

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ly; that way, the punishment has a certain symmetry. Sullivan worked that line for North: "We urge the court to permit him to continue using those talents on behalf of the country that he has served with such devotion." Gary Naftalis, a New York lawyer, made a noble attempt for Bob Wallach, who eventually got six years for his involvement in the Wedtech scandal: "Mr. Wallach's talents can best be employed, and his rehabilitation best accomplished, by community service."

That all sounds good. But, somehow, in practice, the talents serve less to benefit the community than to insulate the criminal. The usual result of Best Use is not symmetry, but irony: the same skills that enabled the criminal to commit his crime wind up protecting him from punishment.

It's the Best Use argument that hands us volunteers like Robert McFarlane. One of Reagan's national security advisers, McFarlane pled guilty last spring to four counts of withholding information from Congress in connection with the Iran-contra affair. The maximum penalty for his crimes was four years in prison and a $400,000 fine; his judge put him on probation for two years, fined him $20,000, and ordered him to perform 200 hours of community service.

While under his sentence, McFarlane has started a new business—McFarlane Associates—for which he's been traveling around the world (with the permission of his probation officer, who also supervises North). His lawyer, Leonard Garment, said he favors alternative sentencing. "Obviously it shouldn't be some Mickey Mouse form of service, it should have some teeth." He said McFarlane was "working with quadriplegics," and that I should call him. "He's just back from Japan."

After a couple of calls to "McFarlane Associates," a woman named Cindy said "Mr. McFarlane said he has no comment on the story you're writing." That seemed strange; after all, if McFarlane was paying back society, wouldn't he want society to know where the debt stood? Since McFarlane was a Marine, it seemed logical that he would be tending quadriplegics in one of the military or Veterans' Administration hospitals in the area. But none of the volunteer coordinators and no one in the relevant departments had heard of him. Calls to other area hospitals also turned up nothing—at first. "Is that the White House man?" said a staffer at the National Rehabilation Hospital. She said she thought McFarlane had been in to see the hospital president a few days before. By then, I had wised up enough not to ask if the president was a quadriplegic.

It turns out that McFarlane is assisting a woman named Louise McNew, who is trying to get support

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from the government to assist the disabled in living outside hospitals. Among other tasks, he's been helping her file for tax-exempt status. The word that people familiar with McFarlane's volunteer service kept using to describe it was "lobbying." McNew wouldn't talk about her work with McFarlane. "How the hell did you find out about that?" she asked.

McNew's project is unquestionably worthwhile. In fact, it's so worthwhile that you'd expect a man like McFarlane to contribute his skills and talents to it during his free time. Instead, he gets to contribute them during what is quite literally his unfree time, his substitute jail time. How did he wind up with this toothless service? "He has a vast experience, you know, he has managerial skills and understanding of the legislative process," said his judge, Aubrey Robinson.

Beefing up probation offices is not expensive, particularly in comparison to prison costs. Georgia's Intensive Supervision in Probation program costs about $1,700 per year per offender. Prison in Georgia costs $13,500.

It doesn't take much of an imagination to come up with the sorts of absurdly nonpunitive sentences Best Use would justify: an insider trader could be ordered to lecture business school classes on ethics; or an actor who sexually exploited a 16-year-old could be ordered to give a handful of antidrug talks to high-school students; or—now stretching the imagination a bit—an upscale clothier guilty of tax evasion could be required to put on a fashion show to raise money for the city budget; or a rock-band manager who assisted in smuggling 19.5 tons of marijuana into the U.S. could be sentenced to produce, oh, three antidrug concerts and to cut an album. . . .Wait a minute. Those are all actual sentences. And by the way: Wilkes Bashford *lost* money for the city of San Francisco with his fashion show. And Harold "Doc" McGhee, the manager of "Bon Jovi," is now a defendant in the Louisiana trial of what may turn out to be the largest drug ring in U.S. history.

There's just no punishment in making Robert McFarlane lobby in "elite isolation" during his free time. It can be punitive—or at least educative and possibly rehabilitative—for white-collar criminals to work in worlds they would otherwise have no contact with, and for all criminals to work at duties they would otherwise never perform. McFarlane might learn something from working in a soup kitchen; drug dealers might benefit from being stripped of their jewelry and warm-up suits and sent to scrub and paint the walls of the housing projects they've abused.

It's worth noting that Judge Jackson did not assign Deaver to use his skills as a lobbyist and PR czar (as his sentencing memo had suggested, listing a few programs seeking help with fundraising and public awareness campaigns). Part of the sentence Jackson gave Deaver, who lied to both Congress and a federal grand jury, oozes Best Use: Deaver has to spend 500 hours educating medical students at Georgetown University on alcoholism. But he also has to spend a thousand hours working at a shelter for addicts and alcoholics in inner-city Washington. Deaver says he feels like he's contributing to the shelter, where, among other projects, he has started diction classes for residents whose English he thought would prevent them from ever holding a job. "I have a lot more time," he said, "and a lot more to learn."

But Deaver hasn't been complying with all the requirements of his sentence. He hasn't been spending nights and weekends at the shelter, as Judge Jackson stipulated he should "as circumstances permit and warrant." Not that anyone's likely to call him on the infraction. It's so piddling, the system reasons, and probation officers are so busy. And that's the final, sad scam of white-collar alternative sentencing. The soft sentence gets softer over time.

That's why, just as prison is essential for people like Gabor, who feel they live above the law, it's necessary for criminals who abuse the public trust. The screams Jean Harris still hears in the night would affect North or McFarlane or Deaver just as deeply and send an unmistakable signal to others who might consider committing crimes like theirs. Had North been given some prison time, he might have ended up in the Petersburg prison camp 25 miles south of Richmond. It's a minimum-security prison, with no fence. But it's not exactly summer camp. The cells are tiny and shared by two. The grounds are spotless, but only because the inmates spend their days pick-

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WE KNEW WRIGHT FROM THE START

Three years before the downfall of House Speaker Jim Wright, *The Washington Monthly* warned its readers: "If Tip O'Neill seems like the sort of guy who would write out a taxpayer endorsed check to everyone who tried to sell him swampland in Florida, Jim Wright seems more like the guy selling the land."

And that's not the first time we anticipated the news that would later make headlines . . .

➡ In a story we ran six years *before* the Challenger disaster, we warned that the space shuttle was unsafe, saying, "Here's the plan. Suppose one of the solid-fueled boosters fails. The plan is, you die."

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ing up cigarette butts and shining floors. One afternoon in December, a group of prisoners was hard at work, painting a spotless white wall white.

But real jail will always be the best deterrent. In the intermediate-level prison across the driveway from the camp, life is more regimented. Contrary to popular fears and fantasies, *Midnight Express* could not have been filmed in most American prisons. But that doesn't mean that scenes from it won't occasionally flicker through your head. At Petersburg, you work eight hours a day in an electronics factory, and (once you get a pass) you can use the library and the gym. But the obvious features—the fences covered with barbed wire that always surround you—and the more subtle ones—the lack of doors on the bathroom stalls—quickly wipe away any illusion of elite isolation. You don't have to experience much of this to know real punishment. Brendan Sullivan would never have told Judge Gesell: "Lt. Colonel North would like to begin promptly the important incarceration period ordered by the court."

Cool and unusual punishment

Before jurisdictions start diverting more convicts into community programs, they'll have to beef up their probation offices. In Baltimore's alternative sentencing program, a total of 10 "managers" supervise 2,000 criminals. That far exceeds a reasonable number. A load of about 25 convicts is about right for one officer; with so few clients, he would have more time to keep an eye on each and to provide the sorts of services, like job counseling, that used to be considered part of the job. With bigger probation offices, every sentencing report could become a thing, if not of beauty, at least of use. (An increase in supervision is not expensive, particularly in comparison to prison costs. Georgia's Intensive Supervision in Probation program, in which two to four probation officers supervise between 25 and 55 criminals, costs about $1,700 per year per offender; prison in Georgia costs $13,500.) Besides better probation, tightly supervised residential drug programs are a must, given the high percentage of drug-addicted criminals. Strict residential treatment tends to cut recidivism more than prison does. It not only removes the criminal from the population (as prison does), it decreases drug dependence and shrinks the chances that a criminal will steal again to feed his habit (as prison doesn't).

Georgia "recognized sooner than most states the relationship between prisons and money," says Corrigan of the National Institute for Sentencing Alternatives. The result, in 1982, was the ISP program, probably the most impressive—and most straightforward—alternative sentencing scheme. ISP has spread, with variations, to jurisdictions around the country. In Georgia, a probation officer provides job counseling while a surveillance officer keeps tabs on the criminals, each of whom must check in, face-to-face, five times a week during the 6 to 12 months they're in the program. Each participant has to put in 132 hours of community service and hold a full-time job or pursue educational or vocational training. Generally, the judge imposes alcohol and drug testing, a curfew, and fines or victim restitution. Fees paid by probationers support the program. When Georgia launched this fancy form of probation, some criminals regarded it as too tough. Offered ISP, they elected to go to prison instead.

Georgia's 1986 evaluation of ISP came up with a "success rate"—with success defined as no new crimes or technical violations during the 18 months after graduation—of 80 percent. That's a lower recidivism rate than was found among regular probationers or among people incarcerated for similar original crimes. And less than 1 percent of all ISP graduates had gone on to be convicted of violent crimes.

A more high-tech alternative, which excites corrections experts and features writers around the country, is electronically monitored house arrest: You wear an electronic tagging device—such as an anklet that sends a radio signal to a receiver in your telephone—or you perform regularly for a two-way video monitor, and you stay home. Other gadgets permit probation officers to test their clients for alcohol without stirring from the office. Like an ISP program, this is a flexible punishment. The convict can keep working, or perform community service, while remaining at home during set hours.

The alternative most popular with the tough-on-crime crowd is the so-called "boot camp" for young male offenders. William Bennett has boosted boot camps as a cheap alternative to prison that scares young people straight. For a few months, young men are subjected to military-style discipline, complete with men in uniform calling them "maggots" and making them do push-ups in the wee hours. Georgia led the way on this alternative as well; there are now some 15 camps in 11 states, with many more under construction or on the drawing board.

Preliminary studies have cast some doubt on the value of boot camps as they're generally run. For one thing, they are turning out to be costlier than prison; for another, they don't seem to cut down recidivism. Sometimes the discipline has gone too far, with inmates winding up badly beaten. Run more wisely, however, the camps might work. In New York state, boot camp lasts for six months, twice as long as most. And officials supervise and assist the inmates

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for a year after they graduate. But without that kind of intensive, long-term effort, the camps seem likely to take tough, aggressive young men and make them tougher, more aggressive, and prouder of their muscles. "I look at this as a fitness program," Robert Bennett, a 19-year-old thief, told the *Los Angeles Times*.

VERA smart

The VERA Institute in New York City runs a community service program for petty criminals, most of whom would otherwise be serving two to three months in prison. VERA sets the offenders to work for 70 hours. According to Susan Powers, who supervises the project, 50 to 60 percent of participants complete their service; those who don't are referred back to the courts for resentencing. Possibly because it got burned in the mid-seventies for being particularly soft on crime (see Tom Bethell, "Criminals Belong in Jail," *The Washington Monthly*, January 1976), VERA emphasizes that the service is punitive. To an extent it is, though clearly it's no match for prison. "It's obviously not incapacitative and it's not rehabilitative—our recidivism stats are about the same as a population with a short jail term," said Powers. The program doesn't work miracles. But it does tell the offenders that society disapproves; it costs $800 to $1,000 per convict, much less than jail; it keeps some beds free in New York's strained facilities; and it gets vacant lots cleaned up, scarred walls painted, and ravaged park areas tended.

Programs like VERA's show that it's possible to experiment with alternatives and remain realistic about crime. Instead of imprisoning judges within strict sentencing ranges, state and federal guidelines should start encouraging them to explore sensible punishments besides incarceration. The real lesson of Oliver North's sentence is not that abusers of the public trust deserve some jail time, or even that alternative sentencing, as applied to celebrity defendants, is a joke. It's more simple than either of those: Our corrections system can be flexible.

We tried soft on crime, and that didn't work. Now we've tried tough on crime, and the results have been just as unimpressive. Maybe we should try smart on crime. As state and federal lock-ups approach gridlock, the challenge to our criminal justice system is to take the elegant, custom-tailored sentence and start marketing it retail. □

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TIDBITS & OUTRAGES

WE THINK WE WOULD HAVE FOUND OUT ANYWAY

The *Anchorage Daily News* reports that the lawyer for Joseph Hazelwood, the captain of the *Exxon Valdez*, claims his client should have immunity from any prosecution because of an Alaska law protecting those who report environmental accidents. After all, he argues, it was Hazelwood who radioed the Coast Guard that his ship was aground and spilling oil.

BEYOND THE PLANET OF THE PUBLISHERS

Rand McNally's recently published "Photographic World Atlas" does not include maps of Oklahoma, North Dakota, or South Dakota. Company officials said space limitations forced the omissions.

"DEAR RED CROSS, IT GIVES US GREAT PLEASURE TO DONATE LOVE CANAL . . ."

After the director of a chemical company donated an eight-acre parcel of land to Chicago Goodwill, the charity learned from the Illinois Environmental Protection Agency that the land was contaminated and that it, as the current owner, could be liable for cleanup costs.

REMIND ME NOT TO GO TO THIS GUY TO GET FITTED FOR CONTACTS

Several female patients of Iowa optometrist Gary Fisher complained to the state licensing board that in the course of routine eye examinations, he had them strip to the waist. They panel voted to exonerate Fisher, saying he was "honestly attempting to provide the best care."

COFFEE, TEA, OR RUNWAY THREE?

A couple who had been on an American Airlines flight that encountered a severe storm going from Chicago to New York claimed afterwards that the plane's pilot asked the passengers to vote on which airport he should try to land at, and that the stewardesses took a show of hands.

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Commons Sense

Democrats, as well as Republicans, need to unhook themselves from the central state

by Jonathan Rowe

Critics called Michael Dukakis a "technocrat" during last year's campaign. But exactly what that meant was usually a bit obscure. Mostly, it seemed a jab at Dukakis's affectless style; the candidate himself thought so, hence his pathetic protests in the second debate that yes, he really cared deeply about things.

The technocracy problem went a lot deeper of course, and not just for Dukakis but for the Democratic party itself. As Harry Boyte suggests in his new book, *CommonWealth: A Return to Citizen Politics*,* the Democrats long ago became the national party of experts and programs. They speak at voters from the standpoint of government, rather than at government from the standpoint of voters. There is little sense of political culture, of people solving problems on their own, beyond the biennial electoral flurry.

CommonWealth is about public space—how Americans define it, what they do to fill it. It is about the blight that has encroached upon public space. If national Democrats see public space as a land of elections and programs—as a gaping void waiting to be filled with "policy"—then to Republicans it shouldn't even exist. Under Reagan, Boyte observes, Republicans redefined community in economic terms, as a marketplace in which the only legitimate activity is the pursuit of self-interest. They claimed public life in order to disparage it.

"Reagan's focus on the marketplace as the key public space for citizen activity—as consumers, not citizens—obliterated ground for common action, and with it, the possibility of public life itself," Boyte writes. (And even now, the best the Democrats can come up with is a bidding war, holding forth an IRA tax break for the merely wealthy to counter a Bush capital gains cut for the very rich.)

Boyte speaks from the decentralist, Jeffersonian strain of the Democratic tradition, as opposed to the Hamiltonian, top-down view that dominates the party and its *New Republic*/Kennedy School intellectual axis. Based in Minneapolis, he has long experience in local organizing. Unfortunately, the style of *CommonWealth* is oddly out of synch with its message. The book began as a Ph.D. thesis and it shows. There is much tedious exposition of the obvious and much burdening of points with superfluous academic authority. (Such as this startling revelation from Robert Dahl: "A has power over B to the extent he can get B to do something that B would not do otherwise.")

* *CommonWealth*. Harry Boyte. *The Free Press, $22.95.*

Jonathan Rowe is a contributing editor of The Washington Monthly.

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If national Democrats see public space as a land of elections and programs—as a gaping void waiting to be filled with "policy"—then to Republicans it shouldn't even exist. They redefined community as a marketplace in which the only legitimate activity is the pursuit of self-interest.

The historical research is patchy; for some reason, much of the best material is relegated to footnotes. Most important, Boyte gives short shrift to the rich historical dimensions of the commonwealth theme. So when he invokes it in the context of local organizing projects in Baltimore and other cities, it is flat and lacking in evocative power.

Still, at its core, *CommonWealth* says perhaps the single most important thing that national Democrats need to hear. Their basic problem right now isn't lack of programs. (Virtually every book from a Democratic standpoint these days sets forth a "new agenda" on something or another.) What they need is a sense of small-d democracy that extends beyond constituents pressing claims upon Washington—a sense of life in the local public realm out of which a compelling national politics can arise.

The great community

The commonwealth ideal is perhaps the most noble in the Western political tradition. Rooted as much in religion as in politics, the idea does not parse out along modern notions of "Left" and "Right." Boston Common, once a community pasture, provides faint echoes of a world view in which community was more than the incidental sum of its constituent parts and free enterprise occurred within a context of communal concern.

The high-water mark of commonwealth idealism in America was the agrarian populist revolt of the late 19th century. The populists were neither central statists nor against private property. Their "cooperative commonwealth" was basically free enterprise without money sharks. The role of government was neither to manage the economy nor to redistribute wealth. It was rather to restrain the railroads and other monopolies and to provide a system of credit that gave the small producer a chance.

The populists fought enclosure of grazing lands in Georgia as independent producers, not collectivists: no one, they argued, should be able to monopolize what was a free gift to all. This sense of property (but mainly land, a distinction Boyte misses) as public trust barely exists today.

Boyte finally cuts loose from the thesis mode when he comes to how modern liberals lost touch with this populist tradition. These are the intellectual scores he really wants to settle—with Marx on the one hand, and liberal centralists such as Herbert Croly and Walter Lippmann on the other. Together, he says, these disparate influences helped shift the Democrats' center of gravity from local involvement to a redistributive managerial state.

Marx saw history the way free market economists do, as restraining and benighted, a weight to be shed. "Most socialist thought has assumed that a sundering of people's communal and historical identities—of 'their roots'—is the indisputable prerequisite to freedom," Boyte writes. Radicals looked with condescension upon the churches, social clubs, ethnic groupings, small businesses, which were the basis of real life political engagement. These diverted loyalty from the millenial imperative of class.

In much milder forms, early 20th century liberals such as Croly also talked about the "great community" of the state, which would control the trusts and manage the economy, leaving little for individual citizens to do but make the most of the economic opportunities thus provided. Amidst the centripetal forces of the New Deal, a few, such as Harry Hopkins, had a localist instinct. David Lilienthal, for example, wanted the Tennessee Valley Authority to foster employee-owned businesses and local self-sufficiency. But he lost out to the interests who wanted nothing more than a cheap source of energy.

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This centralizing impulse was the lineage of a Walter Mondale, to whom all problems traversed the mental circuit from interest group to Congress and thence to federal agency for administration. It was the lineage as well of Michael Dukakis, to whom the problems of governance were essentially ones of program and technique. Boyte is especially insightful regarding Students for a Democratic Society, which posed a brief intellectual challenge to this liberal technocracy. SDS talked about community, Boyte observes. But it wasn't communities rooted in time, place, or mutual obligation. It wasn't communities in which people actually worked and lived. Instead, there was the Peter Pan quality of Dylan's "Mr. Tambourine Man." Former SDSer Todd Gitlin called it a "transcendentalist fantasy of the wholly, abstractly free individual, finally released from the pains and distortions of society's traps." A community without history (parents?), for which the self-indulgent anarchy of Woodstock was the perfect embodiment.

It is no wonder that Ronald Reagan and not Walter Mondale could co-opt the mental rhythms of the Port Huron Statement—the SDS manifesto—with its invocations of "self-cultivation, self-direction, and self-understanding" and its injection into the political discourse of such matters as "finding a meaning in life that is personally fulfilling." Nor is it surprising that so many from the Woodstock generation could feel comfortable in the Reagan camp. Reagan appealed to the same kind of romantic individualism, the fixation on personal fulfillment. If the Mondale-Dukakis mind was wired permanently through the institutions of government, then the Reagan mind ran a solipsistic loop back to self. Reaganite economics are the hedonism of the sixties drug culture, transferred to the economic realm.

What middle class?

The heroes of *CommonWealth* are Saul Alinsky and his followers at the Industrial Areas Foundation (IAF) in Chicago. Alinsky was the former social worker who tried to revive local activism in Chicago's ethnic neighborhoods. He worked through churches and labor unions and built on such institutional loyalties rather than supplanting them. He identified with neighborhood leaders, rather than with the politicians on whom they exerted pressure.

Alinsky became cynical toward the end of his life, Boyte notes, and lapsed into a mode that oddly mirrored the Democratic polity generally. Through the sixties and seventies, to be an "Alinksy organizer"

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was to be a kind of political Sam Spade, shrewd about self-interest and the ways of prodding it to action. Grass-roots groups like ACORN (Associated Community Organizations for Reform Now), which followed the Alinsky model, got caught up in the pursuit of power. "The problem was that organizers of such groups, motivated themselves by passionate ideals, buried their values in the process of organizing," Boyte writes. "They felt *themselves* to be motivated by powerful democratic aspirations. But . . . they saw the 'people' they worked for in a far more narrow and even cynical fashion."

It is not surprising that so many from the Woodstock generation could feel comfortable in the Reagan camp. Reagan appealed to the same kind of romantic individualism, the fixation on personal fulfillment.

Thus welfare rights groups could pursue self-interest agendas as parochial as those of the American Petroleum Institute, resting on the de facto virtue of the interests they represented. Boyte might have added that middle-class consumer advocates fell into the same trap, seeing public virtue in no larger terms than a better washer warranty.

By way of contrast, Boyte tells the stories of IAF organizing projects in such cities as San Antonio, Baltimore, and Brooklyn that embrace a more encompassing vision. BUILD, the Baltimore organization, has achieved something called the Baltimore Commonwealth, which guarantees a college scholarship to any public-school graduate with good attendance and a B average. The Baltimore Commonwealth also will give communities more say in the running of the schools (one hopes Baltimore will learn from the experience in New York City, where community school boards became cesspools of corruption).

"Like the old village greens in New England towns," Boyte writes, "the [Baltimore] Commonwealth created a new forum, both city-wide and in the tangible, localized spaces of particular schools, through which diverse elements of Baltimore could meet, identify problems, disagree, find areas of agreement, plan, work on programs together." (The sentence is an example of the prolixity that tends to blur Boyte's argument with a verbal haze.) Unfortunately, Boyte gets so engrossed in the details of these efforts that when he resurrects the commonwealth theme, it's as though he's suddenly remembered what he's writing about. A bigger problem is that Boyte can't quite figure out what to do with the middle class. While rejecting Marxian class analysis, he is not immune to class bias. Boyte observes early on, for example, that small freeholders in 17th century England embraced commonwealth thinking in their fight against monarchy and aristocracy. In the American Revolution, leading Republicans included middle-class lawyers and businessmen such as John Adams and Ben Franklin.

But theirs is not the commonwealth upon which Boyte chooses to dwell. He focuses instead on urban radicals, such as the ones in Philadelphia who challenged the merchant Robert Morris for shipping grain outside the city at a time of local scarcity. "The *property* of the vessel is the immediate right of the owners," they argued, but "the service of it is the right of the community collectively with the owners."

Agreed, and nicely said. But that doesn't confront the middle-class aspects of the idea—in particular, the tensions between community and property that are the central challenge today. Gliding past the middle class is a rather serious omission, if one is talking about political revival in America. It's especially a shame because commonwealth thinking is showing up in all sorts of middle-class contexts: environmentalism and recycling, for example. In New Jersey, the latest development trend is to build new communities on the model of New England towns, with public spaces and town commons.

Then too, there have always been pretty good reasons for invoking the larger national community. Black Americans may know that better than anyone. It may be true that the civil rights era rendered liberals incapable of Jeffersonian thinking; many still see small town Babbitts and Bull Connor's dogs behind any mention of local control or state's rights. But the police dogs were real; communities can be benighted just like the federal government can. As Boyte notes, Alinsky's signature organization, "Back of the Yards" in Chicago, turned racist in its later years. This doesn't refute Boyte's case for a return to commonwealth politics. But his argument would be richer if he had confronted such difficulties more. □

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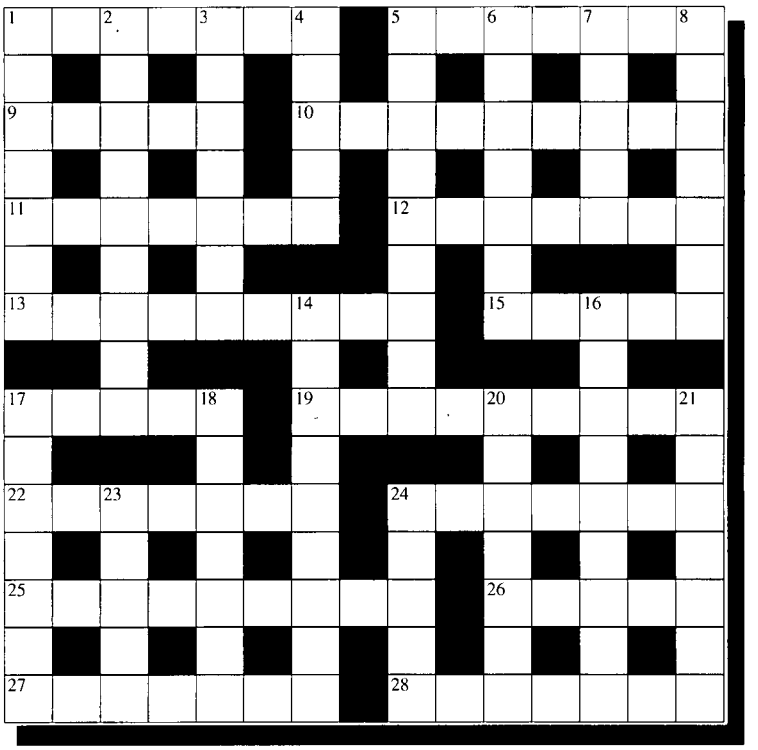
POLITICAL PUZZLE

by John Barclay

The numbers indicate the number of letters and words, e.g. (2,3) means a two-letter word followed by a three-letter word. Groups of letters, e.g. USA, are treated as one word.



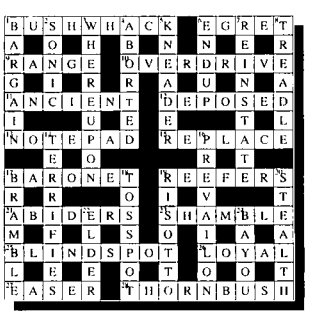
ACROSS

1. Dealt low card passing from scene? (4,3)
5. Reorganized Fed seen as place for cutting spending? (7)
9. Incur new sort of characters. (5)
10. Managed assents in unpleasant situation. (9)
11. Ape and lion mixed like a jewel. (7)
12. Western town, Lincoln, absorbed modified line. (7)
13. Learned ax chopped the great. (9)
15. Grocer or back in front. (5)
17. Take cod back in Rhode Island column. (5)
19. Gave up and shaped a bad edict. (9)
22. Miserable places west of London used by doctors. (7)
24. News of digits tossed around one in the middle. (7)
25. Non-participant top reacts in a different way. (9)
26. Much less warm rice tossed in iodine. (5)
27 & 28. Breathless tomb dug for expensive tools of 1 Across. (7,7)

DOWN

1. Wood measure eggs in Spain. (7)
2. Made dean learn to listen. (4,2,3)
3. City with CIA involvement. (7)
4. Field in which Lutheran generosity predominates. (5)
5. Sloppy DAR brides forbidden to practice professionally. (9)
6. Weakness from artificial intelligence in a spree. (7)
7. Effort in French resort is relative. (5)
8. Part of territory enters a new stage. (7)
14. Special lock halted cad in disarray. (4,5)
16. Cryptically invite sex from broad. (9)
17. Backs off from bad side streets. (7)
18. Washington site is unusual Los Angeles topic. (7)
20. Element produced from refined mica mud. (7)
21. Barren rewards? (7)
23. Mountain feature upset eater. (5)
24. Beat broth mixture. (5)

Answers to last month's puzzle:



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POLITICAL BOOKNOTES

Public affairs books scheduled to be published this month.

Intifada: The Palestinian Uprising —Israel's Third Front. Ze'ev Schiff and Ehud Ya'ari. *Simon and Schuster, $22.95.* When the *intifada*, or Palestinian revolt, began in Gaza in December 1987, the official Israeli response (and, of course, that of their American "Israel right-or-wrong" supporters) was to blame the Syrians and the PLO. Yet according to Ze'ev Schiff, military correspondent of *Ha'aretz*, an Israel daily, and Ehud Ya'ari, Israeli Television's Middle East specialist, neither played much of a role. The two Israeli writers believe that these inaccurate characterizations were indicative of the confusion and ineptitude that has beset Israel since the civil war began. "Let there be no doubt about it," they conclude in one of their more dramatic passages, "though it developed into a statement of major political import, the *intifada* began not as a national uprising to throw off the yoke of foreign domination but as a rebellion of the poor, an awesome outburst by the forsaken and forgotten at the bottom of the social heap."

What this "roar of protest" has led to was entirely unexpected: the embarrassment of the PLO as it has sought—not always successfully—to lead the various factions among the West Bank and Gaza Palestinians. Which is not to say that the PLO has no devoted followers among the overwhelming number of people in the occupied territories. It does, but during the first two years of the uprising at least, many rebels preferred doing it their way.

More significant, though, Schiff and Ya'ari turn a devastating eye at what the *intifada* has done to their fellow Jews. For one thing, it has destroyed the "veil of hypocrisy and self-deceit that what Israel had practiced for over 21 years was a 'benevolent occupation.'" With the Israelis "battering away at defenseless civilians, it is hardly surprising that thousands of Palestinians—many of them innocent of wrongdoing—were badly injured, to the point where some remained handicapped," they write. What has happened? they ask, in horror. The Israeli troops "were brutalizing the Palestinian population because the *intifada* had brutalized the [Israeli Defense Forces]." But now their nation "was repeating the mistakes made by the British in India, the French in Algeria, and the Americans in Vietnam." Above all, they insist over and over again, Israel must come

Spring Previews

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Maps by Beth Silverman
From Lexington to Gettysburg, from the Little Bighorn to Pearl Harbor, America's national battlefield parks preserve the scenes and interpret the events of armed struggles that have shaped our nation's history. Described here in vivid, fast-paced prose by an award-winning author, are crucial battles, highlighted by 52 maps created especially for the book. Eighty illustrations enhance this 7x10, 352 page guide. **$28.95** (July)

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By Carl Albert
With Danney Goble
The son of a coal miner, Carl Albert led the Congress that funded the first exploration of outer space. Here is his life as only Carl Albert could tell it, recounted in the spirit of Virgil, whose Aeneas told of "all of which I saw and much of which I was." 400 pp., 48 illus., 6x9 **$24.95** (May)

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to terms with 1.7 million Palestinians who do not choose to be governed by them.

The choices available to the Israelis are shrinking. Once it occupied the moral high ground, but it now sits diplomatically isolated, an American client state, economically bankrupt, as immoral as any other sovereign nation. Its supporters have long since abandoned any ethical arguments on its behalf, in favor of the questionable "strategic alliance" fantasy. Yet how long can servicing United States policies stand as justification if the Soviet military threat continues to diminish, if not disappear? And how long can the Israelis deceive themselves into believing that American Jews back their policies on the West Bank and the Gaza Strip? Every poll and survey taken since 1988—even those by Jewish organizations—reveals that the majority of American Jews are in favor of trading land for peace, provided Israeli security is assured. What American Jews appear to want to see is Israel once again perched on the moral high ground.

Schiff and Ya'ari would surely agree, and they conclude their absorbing and convincing book with thoughtful suggestions that could indeed help lead toward negotiations and perhaps, one day, even reconciliation. Their solutions embrace "administrative withdrawal" from the occupied lands and a "confederative arrangement. . . includ[ing] Israel, Jordan, and the Palestinian entity. . . in the West Bank and Gaza." What is certain is that the status quo is dangerous to all parties. It is, conclude the authors, especially menacing to the moral condition on which Jews have always prided themselves. All the same, they write somberly: "It is not clear that in this bitter battle for the soul of Israel, the forces of reason [will] prevail."

—*Murray Polner*

Barbarians at the Gate: The Fall of RJR Nabisco. Bryan Burrough, John Helyar. *Harper & Row, $22.50.* Is the spate of takeovers and LBOs really Adam Smith's invisible hand in action? Should management take as its primary goal the task of increasing the trading value of the company's stock? If so, is it worth the resulting

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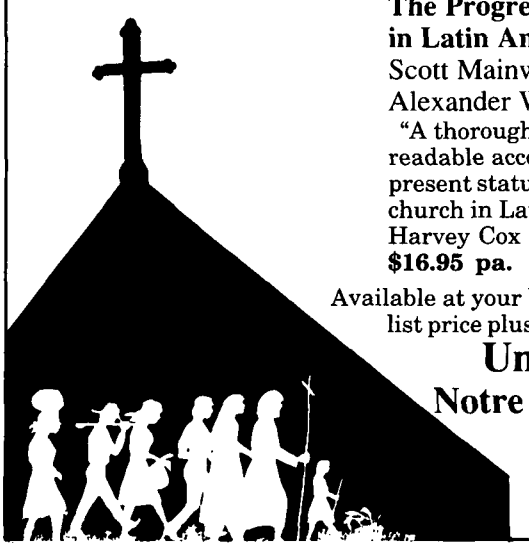

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financial convulsions involved in assuming billions of dollars in debt, slashing R&D expenditures, and often laying off hundreds or thousands of employees?

Answers to these and related questions will have to wait, at least as far as Bryan Burrough and John Helyar are concerned. *Barbarians at the Gate*, a fast-paced account of the intricate financial deal-making and breaking in the record-shattering $25 billion sale of RJR Nabisco, never really examines serious issues, although it succeeds admirably in depicting the Wall Street culture of investment bankers and lawyers who grow fat on the consulting fees generated by takeover deals. Larger-than-life figures—everyone from the flamboyant, frat-boyish CEO F. Ross Johnson to the tightly controlled and publicity-shy Henry Kravis—are painted in broad, often unflattering strokes against a background of extravagant corporate luxury.

As fiction, the basic storyline would be unsettling enough; presented as fact, it's downright ominous. Johnson and his management group, worried by the fact that their stock is undervalued at $55 a share, propose an LBO at $75 to the company's board of directors. Unswayed by Johnson's veiled bribe—an offer of post-LBO directorship seats and the opportunity to watch their own stock holdings grow as much as four-fold—members of an independent board appointed to evaluate the offer issue a press release instead of keeping the deal quiet until the last moment. Kravis, always on the lookout for a high-profile deal to hang his name on, preempts Johnson's bid with a $90 tender offer. Confusion reigns. Third parties come and go, unable to obtain credible financing. Johnson and Kravis strike a deal, only to see it unravel over seemingly minor disputes. A second management bid of $100 is derailed by a long shot from an outside group led by First Boston, which loses out in a subsequent bidding round. Finally, in protracted overnight negotiations, the board decides to sell to Kravis for $109, rejecting a $112 management bid because of concerns about its underlying financial assumptions.

Gripping stuff, right? Unfortunately, I don't know how much of it to believe. Burrough and Helyar have stitched together an impressive narrative, but except for the facts already in the public record, it's impossible to tell how much relationship their story bears to reality. Since the authors are reporters for *The Wall Street Journal*, I'm not that worried about their diligence in tracking down the facts. But, like all New Journalism, this book relies heavily on reconstructed dialogue and characters' inner thoughts reported as truth—even when, as on at least two occasions, encounters between two characters are described wholly from one perspective. (Dissenters' views get a hearing in footnotes.)

The novelistic style also prevents the authors from stepping outside the narrative to provide an objective assessment of the buyout. Questions about the company's ability to service its debt are raised, but only by characters anxious to learn how high they can push their bids without inheriting a bankrupted wreck. The closest thing to a critical look at how LBOs affect the economy comes from Ted Forstmann, a minor Wall Street player

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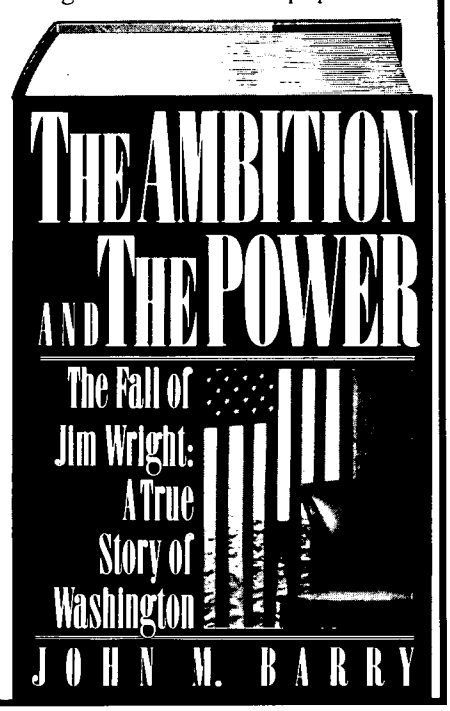

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with a passionate hatred of junk bonds, who buttonholes anyone who'll stand still long enough for his tirades on the evils of "funny money" financing. (And the only real hint as to any opinion held by the authors themselves is the book's title, which is taken from one of Forstmann's spiels. The "barbarians" he envisioned were the junk bond hordes eager to tear down yet another company for the sake of the fees.)

The book's most interesting contribution is its description of how these billion-dollar Wall Street deals are really driven by the participants' egos. Ivan Boesky notwithstanding, greed is out; beating the opposition is in. In the case of RJR Nabisco, no one in the Street's insular community wanted to be left out of the greatest deal of the century; as a result, no one bothered to ask whether their competitive instincts were leading them over the precipice. Right after Kravis's tender offer, for instance, an agreement between Kravis and Johnson threatened to bring the proceedings to an early close; the two investor groups would split the purchase of stock and control of the company's board, with huge fees for all concerned. But according to Burrough and Helyar, the deal foundered when one of Johnson's partners, the investment bank of Salomon Brothers, refused to allow a hated rival—the junk bond house Drexel, Burnham, Lambert—to assume the leading role in the bond financing. What was initially a disagreement over a minor point quickly escalated until the deal was called off.

My favorite bit of investment banker folklore, however, concerns First Boston's spoiler bid of between $105 and $118. Because it exploited an almost-expired tax loophole that would allow its investors to defer nearly $3.5 billion in taxes, the bank was able to eclipse both Johnson and Kravis, forcing a second bidding round at the last minute. Competition was the only watchword—the plan's architect barely hesitated when he realized that a deferral of that magnitude would have increased the federal deficit by a full 2 percent. Next time you hear someone rhapsodizing about the virtues of the free market, remind him of this.

—David P. Hamilton

Big Hoops: A Season in the Big East Conference. Bill Reynolds. *New American Library, $19.95.* Well, so much for reforming college basketball. Not that the call for such reform has reached what you would call a roar, mind you, but did you *see* how much CBS agreed to pay the NCAA for the rights to its annual basketball gala, the Final Four? A billion dollars. It has long been known that college basketball has a peculiar appeal for

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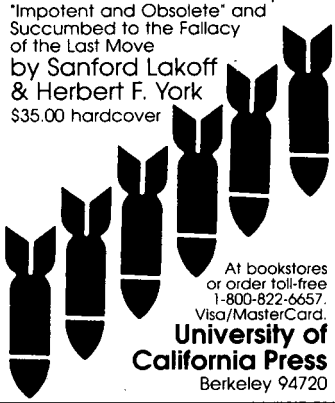

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television producers, combining as it does the rah-rah excitement of old-fashioned college sports with an extraordinarily high level of skill. But a billion dollars? That much money goes a long way towards justifying exploitation of the baldest sort and hypocrisy on the grandest of scales. That billion-dollar figure explains why college basketball cannot be reformed, at least not anytime soon, for it speaks to something that is elemental about college hoops today: it is the single greatest cash cow in all of sports—more so than college football (which has far fewer games and much greater overhead), and certainly more so than professional sports, which have to pay their performers something approaching their market value.

The Big East Conference, the subject of Bill Reynolds's book, which is written in the John Feinstein, A-Year-In-The-Life mold, is as good an example of the state of college basketball as you're likely to find. It was born a scant 11 years ago, the brainchild of former Providence College coach and athletic director Dave Gavitt, who is widely hailed as one of the great geniuses of sports marketing. His league was explicitly formed with an eye to major media markets: Georgetown brought the Washington market, St. John's the New York market, Villanova the Philly market, and so on. Pittsburgh became a member in order to preempt plans for a competing league. (Providence College, the team I root for, got in because Gavitt wanted to continue living in Providence.) The league makes gobs of money for all the schools; its own contract with CBS runs into the millions of dollars. Last year every game but one was televised (the Big East runs its own mini-television network); and so ruthless is Gavitt about having the league seem "big time" in every way that he actually forced Boston College to build a new, state-of-the-art gymnasium, with luxury boxes and the whole bit. Since Boston College is the league's perennial doormat, most of the new seats are empty. Not to worry: Gavitt forbids the cameramen

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to pan the empty seats; that way, Boston College games *look* big time, even if they're not.

Because Reynolds, a Providence sportswriter, has written what amounts to an extended apologia for the Big East, he is quick to point out that the Big East schools are better than most. And he's right. The Big East has escaped the kind of major recruiting scandals that have plagued big-time basketball schools like Kentucky and Nevada-Las Vegas. Many players in the Big East graduate (St. John's is the big exception), and some of them even major in real subjects. In general, the coaches have tended not to get fired the first time they have a down year. For instance, Georgetown's John Thompson has done a remarkable job of getting his black basketball players to succeed at a nearly all-white school, a fact that Reynolds dwells on, if somewhat grudgingly. (Like nearly all sportswriters, Reynolds is no fan of Thompson. The reason is that Thompson doesn't return reporters' phone calls, which is the barometer by which sportswriters tend to judge the worth of the people they write about.)

Even if you give the Big East schools their due, you still cannot read this book without getting the gnawing feeling that something is terribly wrong. It's not just that a sneaker company will pay a coach up to $200,000 to have his players wear its shoes, or that coaches' basketball camps can net them $400,000—though that's certainly part of it. Money has become an unseemly obsession. There are also the rituals of recruiting, which have an absurdist feel to them: grown men groveling before 17-year-olds who may or may not be able to read. ("It cannot be done with dignity," one former coach says.) Reynolds also explains how all the assistant coaches have learned to bump "accidentally" into prize recruits in order to evade NCAA rules (which are themselves ridiculous, but that's another story). One coach told Reynolds, somewhat pathetically, "You get into this profession because you like to coach. And 30 nights a year out of 365, you get a chance to do what you went into the profession for." The rest of the time, he added, his life was consumed by the horrors of recruiting. ("The reality is we need players.")

College basketball has become filled with a kind of grinding, unrelenting pressure that turns otherwise decent men into growling ogres, the kind that gives people ulcers, and that causes them to lose perspective. The biggest scandal in the Big East last year was the importation of star guard Andrew Gaze from Australia to play for Seton Hall. Seton Hall had a wonderful, storybook year, making it to the NCAA championship game, and Gaze was an important contributor to the team's success. But he could never be described as a *college student*—he was brought to America to play basketball, and after the basketball season ended, he went home. Reynolds, alas, has also lost perspective: he gives *l'affaire Gaze* less than a paragraph, and calls the criticism "media sniping."

One can find, scattered about in the book, any number of other incidents that show starkly, if unintentionally, the degree to which that pressure warps values. In one, a Syracuse freshman, looking utterly miserable after a poor game, tells a reporter that he wishes *Sports Illustrated* had never put him on its cover. "People are expecting too much," he complains sadly. Then there's this: "[Tate] George is a 6' 6" junior guard from New Jersey whom [Connecticut coach Jim] Calhoun always seems at odds with. One of the reasons is that Calhoun thinks he is not as committed to basketball as Calhoun would like him to be. He is a student. He has a social life. His life doesn't seem to be confined inside the borders of the court." Imagine that—he's a *student*! With a *social life*! Doesn't that tell you everything you need to know about what's wrong with college basketball?

So what to do? Don't look for the NCAA to offer guidance. The NCAA has become a joke: an organization so weighted down with bureaucracy, it offers rules as arcane and nit-picky as anything found in the Federal Register. They are designed, supposedly, to make the system fair, but the NCAA is so out of touch that its own regulations have the practical effect of making already poor basketball players even poorer while making everyone else around them rich.

No, the answer, it seems to me, requires stepping back and looking at the Big Picture—looking beyond whether an assistant coach should visit a kid three times instead of four; or whether college atheletes should be allowed to hold part-time jobs (right now, they're not). We should be trying to figure out how to reconnect college sports to, well, to the colleges again. I don't know all the steps that should be taken—and I especially don't know what to do about the degradation of recruiting—but there are at least two changes that would be both simple and right. The first would be once again to forbid freshmen from playing on varsity teams. Changing that rule in the early 1970s was the single most destructive thing the NCAA ever did: it robbed athletes of their one chance to act like real students, to become part of a school, without the pressures that come with big time college sports.

And the second? Pay the players. Don't do it under the table, thus teaching college athletes about cynicism and deceit. Bring it out in the open—admit that athletes are doing a job for the university every bit as much as a professor or a lab assistant or a student who works in the computer room to make a little spending money. Get rid of the hypocrisy and at least some of the exploitation. If "programs" are going to be big-time money-makers, they also ought to be big enough to share at least a small portion of the wealth with the people who are making it all possible. Ultimately, what's scandalous about the Big East is not Boston College's unneeded gym, or Andrew Gaze's year at Seton Hall, or St. John's paltry graduation rate. Rather, it is the delusional belief that this television league Gavitt created has, as he put it, "made it better for the kids." I love college basketball, but even I can see that Gavitt is either a fool (if he believes what he's saying) or a cynic (if he doesn't). If this constitutes "better," then it's time to take a few steps backward.

—*Joseph Nocera*

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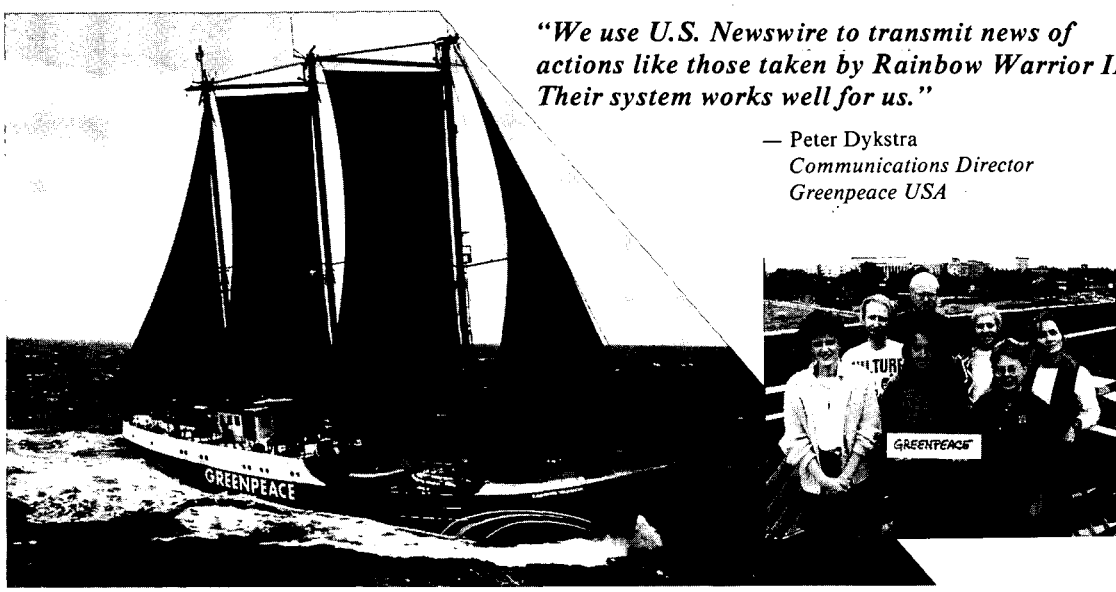

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